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ABSTRACT

The delegates of the Appalachian Legal Services Conference pointed out that the Legal Resource Foundation was not to be a substitute for any agency or professional group but to supplement existing resources, serving as a central organization to focus attention on the need of communities and states to develop sound and effective legal service facilities. Professor Cady presented a survey of needs in legal services and Bert Early of the American Bar Association accepted wide responsbility for the legal profession. Descriptions of various types of plans that are operating successfully in other parts of the country were given. These include neighborhood law offices, circuit riding programs, judicare, and law school clinics. The book includes a resolution for: creating an ad hoc commission, drafting an appropriate charter and bylaws along the lines suggested by the resolution, and providing bylaws along the lines suggested by the resolution, and providing bylaws dealing with< policies of the Foundation (composition to be prescribed by the ad hoc commission), representation of the interests of the governors, bas associations, and affected clientele. Appendices contain survey data, and information on "practice of law" by law students, and a work program. (NL)

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papers and proceedings of

APPALACHIAN LEGAL SERVICES CONFERENCE

Knoxville, Tennessee
July 24-26, 1969

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Knoxville, Tennessee
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introduction

These Proceedings of the Appalachian Legal Services Conference are designed to serve as a resource for law schools that have or plan to have legal clinics, for bar associations concerned with broadening legal assistance in their counties, and for other community groups that have an interest in developing appropriate systems for making lawyers available to low-income individuals and families in the thirteen-state Appalachian region.

The Conference, fairly representative of the region (*see* Resolution, page 42), was composed of lawyers and laymen. Each seemed aware of the needs of the various communities, and they preferred to discuss practical solutions rather than dwell upon research and survey questions. For instance, at the state caucuses, where the problems of legal areas were scheduled to be explored, the delegates spent most of the time considering the resolution to establish an Appalachian Regional Resource Foundation.

In these proceedings, we have reprinted some of the working papers distributed at the Conference. Combined with the publication of the principal speeches and the summaries of the relevant discussions, this volume can serve as a useful handbook for law students, law professors, lawyers, and lay organizations desiring to establish a new or improve existing legal services.

In discussing the objectives and functions of the Legal Resource Foundation, the delegates made it clear that this was not to be a substitute for any funding agency or professional group but that it should supplement existing resources, serving as a central organization to focus attention on the need for communities and states to develop sound and effective legal service facilities. Its function, as stated in the Resolution, will be educational and promotional. Certainly, as a minimum assistance, the Foundation should contribute much in the way of publicity, securing technical assistance for local groups, and help in getting funds for particular projects.

This Conference was sponsored by the National Legal Aid and Defender Association, the College of Law of the University of Tennessee, and the ABA Standing Committee on Legal Aid and Indigent Defendants. Organizations cooperating include the Appalachian Regional Commission, the Legal Services Program of the OEO, the various state bar associations and law schools of the region, and the AFL-CIO Department of Community Services. Funds to help finance this Conference were received from the Department of Health, Education and Welfare (under the Higher Education Act of 1965), from the J. T. and C. B. Fish Foundation of Logan, West Virginia, from the ABA and the NLADA. To all of these we express thanks and appreciation.

You will note that after Professor Cady presented his scholarly survey of the needs in the area of legal services for the region, Bert Early of the American Bar Association accepted wide responsibility for the legal profession. Next follow descriptions of various types of plans that are operating successfully in other parts of the country. These include neighborhood law offices, circuit riding programs, judicare, and law school clinics. It is hoped that from these suggestions the areas that do not have organized legal aid and defender services will be inspired to push for some adequate system. In addition, we have included other documents that should be of help in organizing and developing local plans.

With the emphasis on law school clinics that will result from activities of Bureau of Higher Education (HEW) as discussed by Dr. Reitz on page 15, law schools throughout the country may become a more conscious training ground—and certainly the inspiration—for the hundreds of legal aid lawyers and defenders needed.

The NLADA and the ABA Standing Committee on Legal Aid and Indigent Defendants can provide technical aid (through the Appalachian Legal Resource Foundation) to local communities who request such assistance.

JUNIUS L. ALLISON
Executive Director
National Legal Aid and Defender Association

remarks of

CARL D. PERKINS*

Since passage of the Economic Opportunity Act of 1964, the programs that have been developed under its auspices have had many headlines. Head Start has often been a glamor program in the nation's press. Job Corps has had its bouquets, as well as its lumps. The work-experience and training programs have come in for their share of attention.

But there is a program that has worked quietly, efficiently, and professionally; comparatively, it has been little known. This is the Legal Services Program.

Legal Services has been an expression of the lawyer's concern for justice for the poor and of our nation's determination to make equal justice under law a reality for every man, woman, and child in this country.

This program has been a tremendous force for good, worthy of the highest ideals of the legal profession. Its success has been a fulfillment in concrete terms of some of the principal goals of the anti-poverty program.

Legal problems are not the exclusive domain of the rich or the moderately well-off. In fact, poor people have more legal problems than anyone else. An OEO legal services lawyer, by practicing his profession's traditional ideals of legal representation, can help poor people in the exercise of their legal rights.

By doing this, they also help create a climate of justice, a culture of equality, by achieving greater equality, dignity, and hope for the poor.

Make no mistake: This has been a daring and bold program. It represents the first attempt in our country's history to provide, on a mass basis, legal assistance for poor people who previously have faced the complex maze of legal technicalities on their own. It has been a rather overpowering experience for people without education, without experience or sophistication, and without the comfort of friendly advice.

This coming November, the Legal Services Program will begin its sixth year of operation. By that time, some 1,950 lawyers working in 850 offices will have joined in this effort. At least one program is located in each of 49 of our states, plus the District of Columbia, Guam, and Puerto Rico. Expenditures for the fiscal year just ended totaled $47 million—a modest figure as governmental programs go, but eight times the amount expended in the first year of operations, Fiscal 1965.

The legal services offices serve many rural as well as urban areas. They assist the rural poor in meeting the special problems they face.

In Appalachia, the subject of special concern at this conference, we have gotten off to a relatively slow start. Until recently, we have had only two programs—those in Northeast Kentucky and in Mingo County, West Virginia. I was happy to learn that two new programs were funded within the last few weeks in our area: one affiliated with West Virginia University at Morgantown and another program in the Northern Panhandle of West Virginia.

Only in recent years has the legal profession come to a broad recognition that there is a need for serving vast numbers of persons who have little money and multiple problems. Law professors, private practitioners, recent graduates, and others close to the situation have become increasingly aware of a growing trend: more and more good young lawyers not only want, but are demanding, a chance to work with the poor.

The OEO program has been a major factor in the movement of the law toward the poor. Under this program, resources were provided to enable the legal profession to work with poor people where they lived. At the same time, the Legal Services Program opened new employment opportunities for this new breed of socially-aware young lawyers.

I sometimes wonder if these legal services attorneys realize the full extent of their own contribution. They provide legal counsel and representation to poor people who are not accustomed to having anyone on their side.

They are activists in encouraging law reform through test cases and legislation. They represent groups and organizations of the poor, and, in many other ways, they make the law more responsive to the needs of low-income people.

Without their assistance, the low-income client would be highly lonely and forlorn when faced with problems in such fields as landlord-tenant relations, housing code violations, public housing regulations, sales agreements and contracts, wage claims, bankruptcy, and various administrative problems with welfare, social security, workmen's compensation, and even family problems.

It was not the intent of the Economic Opportunity Act—nor is it the practice—for this program to stir up litigation or abuse legal procedures. The legal service lawyer is simply offering to poor people the kind of personal

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**Representative for the Seventh District, Kentucky; Chairman, House Committee on Education and Labor.*

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advocacy and dedication that better-off people expect as a matter of course when they face similar problems.

Only a small fraction of the cases that legal service lawyers handle actually go to trial in court. Most are settled by negotiation and agreement. Of the cases actually tried, legal services lawyers have won about three-fourths, and they have been successful four-fifths of the time in obtaining reversals of administrative decisions of governmental agencies.

People who do not meet the economic standards prescribed by the Economic Opportunity Act are referred to private attorneys. In essence, the OEO neighborhood attorney locates himself in a neighborhood law office that is easily accessible, visible, and available to the poor. He is not to be found in the glass and steel skyscraper.

We all cling to the phrase "equal justice" as a cherished concept of our American way of doing things. Our system of laws and legal advocacy is directed toward the protection of the innocent and the punishment of the guilty. It is a system dependent for its success not only upon just laws and vigorous law enforcement, but upon equally just and vigorous advocacy on behalf of plaintiffs and defendents–rich and poor alike. It is the part of the OEO effort to assist the poor man in his everyday life; to work with him in a continuing, systematic manner, rather than merely offering short-term assistance in emergency situations, with equally limited results.

In doing this, we add new luster to a profession we honor, a profession we serve.

remarks of
JUNIUS L. ALLISON*

There have been some pointed conversations around NLADA headquarters about the personal interest I have taken in this conference. Not-so-sly references are made concerning my Smoky Mountain ancestors, my rural upbringing, and my country manners. When I use certain expressions–words that are perfectly good Elizabethan English–when I talk about special ways to cook food or mention folk music, handcrafts, or white lightning, or even sunsets and rhododendron, my Chicago associates give me a tolerant look and a faint smile as if to say, "We realize that you have had a restricted background, and we understand your limitations."

During the years I have been away from Asheville, I have established a working relationship with my provincial friends in the Second City–and they have been most helpful in contributing to the details of this conference. In fact, some of them are here, and many more wanted to come. My interest in this institute may be personal, but it is as genuine as it is intense.

This conference has three objectives:

First, we hope to talk about the special needs for legal services in the Appalachian region. In trying to assess these needs, we are aware that more serious problems face our mountain states–housing and job shortage, health and educational limitations, as well as the exploitation of natural resources in some areas. These region-wide problems exist in spite of the tremendous strides made by the various states in the last few years and in spite of the improvements made possible by the Appalachian Regional Commission.

However great and widespread our other problems are, we cannot overlook the urgent need to have the advice and representation of lawyers available for low-income individuals and groups. We know that in many instances solutions to community problems involve the services of lawyers. During the sessions today and tomorrow morning, we hope to point out some of the ways in which lawyers can help indigent individuals and families.

Second, we have been fortunate in bringing together some men who have had experience in various methods of providing lawyers for the poor on an organized basis. These concepts go beyond the great amount of free service given daily by lawyers in private practice. From your program, you will note that we will be considering programs that involve law school clinics, defender programs, community-supported legal aid societies, circuit-riding systems, and OEO-funded legal services, which include such diverse projects as judicare and neighborhood law offices.

From one or more of these successful plans, you should get suggestions that will be applicable to your particular area.

Third, tomorrow morning, the representatives from the various states in the region will meet to discuss problems of their particular locality. Each group will select a chairman to make a report later to the full session. (Special invitations were extended to state and local bar associations; law schools, advisory and standing committees of the ABA; governors of the thirteen states, existing legal aid offices, and a large number of individuals known to be interested in this region.)

We hope that we can lay the groundwork for an Appalachian Legal Resource Foundation that will be a continuing organization authorized to accept grants and empowered to provide encouragement and assistance to the cities, counties, and states of the region to adopt and implement programs designed to meet local needs.

We will publish the proceedings of this conference and much of the working papers for use in law schools and by bar associations. This publication will be made possible by financial help through the Higher Education Division of the U.S. Office of Education and will be distributed to law schools and bar associations.

For the law schools that are now operating legal clinic programs, technical assistance where needed and desired will be available through the NLADA and the American Bar Association Standing Committee on Legal Aid and Indigent Defendants.

****Executive Director, National Legal Aid and Defender Association.***

remarks of

THOMAS C. CADY*

Special Needs of Appalachia

That all of us should be gathered here for this conference is a symptom of failure of society and its ability to deliver justice. As the final report of the American Assembly of Law and the Changing Society found:

> Our changing society now faces challenge to public order and to the realization of American ideals greater than any since the Civil War. . . .
>
> Our problems arise partly from basic weakness in social, economic and political institutions and partly from weakness in the machinery of justice itself.[1]

It is also a symptom of failure of millions of human beings known as the Appalachian poor, of the legal system, and of the legal profession.

This conference is also a sign of hope. The process of resolving differing views stressed by strong-willed lawyers on an extremely controversial topic is, indeed, difficult. Much more difficult is the process of institution building. To be involved in these processes, however, is a distinct pleasure, for I hold with Harrison Tweed's assessment:

> I have a high opinion of lawyers. With all their faults, they stack up well against those in every other occupation or profession. They are better to work with or play with or fight with or drink with than most other varieties of mankind.

Along with Mr. Allison, my hope is that this conference will not be concluded as so many others have—with rousing speeches to a like-minded cheering section but without the follow-up of implemented reality. I hope that we can all leave here with an Appalachian Legal Resource Foundation in existence, rearing to go and funded.

In preparing my remarks for this conference, I marveled at the task assigned. My huge topic is the "Special Needs of Appalachia." That topic has engaged some of America's better minds for decades, and I have fifteen minutes; nevertheless, if you will excuse some rather rapid reading and a substantial number of unspoken assumptions, I wish to examine the culture of poverty in Appalachia and the legal system's response and to suggest some guide lines for Appalachian legal service programs.

Appalachian Culture of Poverty

The poverty system in Appalachia in many respects parallels the poverty system found throughout the rest of the United States. Poverty today is far different from the "old" poverty in the pre-1940's.[2] The old poverty, though widespread, was laden with opportunity. It was general, the curse of a large part of our population: Then the majority of Americans were poor.

The new poverty is minority poverty—about 22 million in mid-1969, or 10 per cent of the American population.[3] In Appalachia, the poor are also in the minority—but, at 30 per cent in 1960, a much larger minority.[4] The old poverty existed at a time of expanding manpower needs. As the industrial system expanded, unionization increased, the welfare state expanded, and millions of the poor were upgraded to modest economic security. Those left behind formed the nucleus of the new poverty.

Immune to progress, helpless and hopeless, the new poor lack the aspiration and the will to succeed that imbued the old poor. Thus, poverty in the United States today is a new poverty definable as a culture of poverty, deliberately designed, constructed, and maintained by society.[5] In Appalachia, the culture of poverty binds a little tighter. The poor in Appalachia are poorer and more defeated, more helpless, more hopeless than elsewhere.[6]

The general plight of the poor in Appalachia has been the subject of tons of books, articles, columns, investigations, and studies.[7] The survey of problems is all too familiar. More often than not the poor man in Appalachia is white,

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**Associate Professor of Law, West Virginia University College of Law.*

[1] *American Assembly, Law and the Changing Society: Final Report* 5 (1968).

[2] M. Harrington, *The Other America: Poverty in the United States* (Penguin ed. 1966); J. Galbraith, *The Affluent Society*, Ch. XXIII (Mentor ed. 1958); Harrington, "The Politics of Poverty" *The Radical Papers* 123 (I. Howe ed. 1965).

[3] Cohen, "A Ten-Point Program to Abolish Poverty," 31 *Soc. Sec. Bull.* 3 (Dec., 1968).

[4] House Comm. on Education and Labor, 88th Cong. 2d Sess., *Poverty in the United States,* 174-75 (Comm. Print 1964).

[5] M. Harrington, *op. cit.*, Ch. 9.

[6] Mooney, "Legal Services in Appalachia," in OEO and U.S. Attorney General, *Conference Proceedings: 1965 National Conference on Law and Poverty* 89-90 (1966); Weller, "Human Attitudes in Appalachia," 70 *W. Va. L. Rev.* 287 (1968).

[7] The following is just a small sampling of the vast literature on poverty in Appalachia: B. Bagdikian, *In the Midst of Plenty: A New Report on the Poor in America*, Ch. 4 (Signet Books ed. 1964); H. Caudill, *Night Comes to the Cumberlands: A Biography of a Depressed Area* (Atlantic-Little Brown Book ed. 1963); R. Caudill, *My Appalachia* (1966); T. Ford, ed., *The Southern Appalachia Region: A Survey* (1962); J. Fetterman, *Stinking Creek: The Portrait of A Small Mountain Community* (1967); President's National Advisory Comm. on Rural Poverty, *The People Left Behind* (1967); J. Weller, *Yesterday's People* (1965); Crane & Chinitz, "Poverty in Appalachia" *Poverty Amid Affluence* (L. Fishman ed. 1966); Sweeney, "Appalachia: The Realities of Deprivation," *Poverty in United States, supra* note 4.

unemployed, making do on welfare, poorly educated, living in a tumble-down shack—usually in a small rural village, in debt, in wretched health, eating an inadequate diet, possibly hungry or at least malnourished, with a spouse dead or run off.

> They live out their lives in a world of sour dreary shacks, greasy food, cheap clothes, inadequate schools, grimy police stations, welfare offices, unemployment offices, juvenile courts, small loan offices, food stamps, junk cars, cheap whiskey, a pleasureless past, a meaningless present and a hopeless future. They probably commit more crime, have more domestic strife, forfeit more obligations, waste more time and energy, get hurt or sick more severely and go insane more frequently than the rest of us.[8]

From these descriptions it is evident that the social problems of the Appalachian poor can be generally classified. Various listings are available. The President's National Commission on Rural Poverty[9] listed rural America's special needs as: (1) the creation of a favorable economic environment; (2) manpower policies and programs; (3) education; (4) health and medical care; (5) family planning; (6) welfare; (7) housing; (8) area and regional development; (9) community organization; (10) conservation and development of natural resources; (11) adjustments in agriculture, forestry, fisheries and mining; and (12) more effective government. The Southern Appalachian Regional Survey[10] listed the social problems of the area as: (1) the changing population including population growth and migration; (2) the changing economy including agriculture, extractive industries and forestry, manufacturing and tourism; and (3) the changing society including local government, local, state and regional planning, education, religion, health and health services, and social problems and welfare services.

The legal needs of the poor likewise can be classified. Professor Mooney has stated that:

> Their legal problems may run the gamut of those courses taught in the first year curriculum—torts, property, crimes and contracts—and for them involve the very minimums of life itself. . . .[11]

Pat Wald in her excellent report to the 1965 National Conference on Law and Poverty itemized the legal problems of the poor as: (1) the family, (2) housing, (3) discrimination, (4) consumer purchasing, (5) welfare, and (6) deprivation of liberty.[12]

James D. Lorenz, Jr., director of the California Rural Legal Assistance Program, found the legal problems of farmworkers to include: (1) housing, (2) debtor's rights and remedies, (3) welfare, (4) employment, and (5) provision of needed services and equitable treatment by governmental bodies.[13]

These listings are generally conceded to be the specifics of the legal problems of the poor, and they all have their counterparts in Appalachia.[14] In the employment area, we can see the legal problems relating to the whole range of federal programs providing for human and environmental development such as job training and retraining, small business, home, and farm loans, and public works construction. Also involved are legal problems relating to wages, hours, working conditions, discrimination based upon age, sex, and race, and union representation. In the housing area, we can see legal problems relating to property ownership, including tangled deeds and boundary disputes, mineral rights payments, condemnation for highway construction and utility easements, and legal problems relating to landlord-tenant relations including repair, housing code violations, terminations without cause, and the creation of tenant unions and cooperative housing ventures. Legal problems involved in the area of domestic relations continue to provide the bulk of the case load for the legal service attorney: divorce, separation, support, maintenance, adoption, and bastardy proceedings. Increasingly, consumer relations of the poor are being emphasized for treatment. Involved are debtor-creditor problems, bankruptcy, and commercial exploitation. Problems with the welfare department, hitherto a legal orphan, are now moving through the courts across the country. Involved are the myriad eligibility requirements other than need, such as residency, morality, and work, and the whole panoply of decently fair treatment. Finally, in the education area, developing legal issues include requests for equal financing, attacks on requirements for more than majorities for approval of bond levies and compensatory education. This listing could be expanded by any imaginative attorney.

All these translations of social needs into recognized legal categories, however, fail to recognize and "bear little resemblance to the most deep-seated concerns of the poor for genuine equality, for excellence, for dignity, for genuine choice and even for subsistence itself."[15] The legal problems of the poor have been further refined. Professor Viles of the University of Kentucky College of Law noted that the poor's legal needs are related to (1) people in crisis, (2) residents in ghettos, and (3) a class in servitude,[16] but the challenge of the special needs of Appalachia is basically to understand a very special brand of human being—the Appalachian poor—that we seek to serve; and also to take a rather bitter introspective view of the Appalachian legal system.

Historically, the law, lawyers, and the legal system have not generally been held in high esteem. A sampling of opinions will do to make the point:

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[8] Mooney, "Legal Services and the Legal Establishment," 70 *W. Va. L. Rev.* 363, 377 (1968).

[9] Report, *supra*, note 7 at XIV.

[10] *The Southern Appalachian Region: A Survey, supra*, note 7 at VII.

[11] Mooney, *op. cit.*, pp. 377-78.

[12] P. Wald, *Law and Poverty, 1965: A Report to the National Conference on Law and Poverty*, iii.

[13] Lorenz, "The Application of Cost Utility Analysis to the Practice of Law: A Special Case Study of the California Farmworkers, 15 *U. of Kan. L. Rev.* 409 (1967).

[14] Mooney, *supra* note 11 at 378.

[15] Cahn & Cahn, "What Price Justice: The Civilian Perspective Revisited," 41 *Notre Dame Law.* 927, 941 (1966).

[16] Viles, "The War on Poverty: What Can Lawyers (Being Human) Do?" 53 *Iowa L. Rev.* 122 (1967).

> Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered.[17]
>
> The first thing we do, let's kill all the lawyers.[18]
>
> 'If the law supposes that,' said Mr. Bumble, 'the law is a ass, an idiot.'[19]
>
> On January 20, 1513, Balboa, the Spanish Admiral of the Great South Sea, wrote his monarch imploring him that no bachelors of law be permitted to come to the New World. A century later, in constitutions, charters and legislation, the English colonists demonstrated the same hostility to lawyers.[20]

Furthermore, the law, lawyers, and the legal system have not escaped observation of their relation to the poor. Mr. Dooley's comment is all too familiar:

> Don't I think a poor man has a chanst in court? Iv coarse he has. He has the same chanst there that he has outside. He has a splendid poor man's chanst.[21]

or Anatole France's acid comment that:

> The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread.[22]

Attorneys General of the United States and Supreme Court Justices have time and again pointed out that the poor "hate lawyers,"[23] see the "law as an enemy"[24] or do not respect the law."[25] The Appalachian poor, as well, share the poor's low opinion of the law, lawyers, and the legal system. The mountaineer has an "ignorant and antagonistic outlook on the role of law in his society."[26] Isolation and immobility contribute to a view that law is unnecessary and consequently no real restraint upon their normal activities.[27] They feel "the law is rigged against them."[28] The law is known by the sheriff who takes the child to the reformatory or the social worker who takes the child to the foster home or the process server who repossesses the furniture. Rural lawyers, concentrated in the county seats near the courthouse and serving, *a priori*, the moneyed interests of the county and often the spokes in the county political machine, are closely identified with the "courthouse gang."[29] The feebleness and corruptness of the county government are associated with the legal profession. Small wonder then that the Appalachian poor fear and distrust the law.

The Appalachian poor also live in a folk culture that operates on a wholly different value system than that guiding the middle class. The Appalachian poor are person- and emotion-oriented rather than idea- and intellect-oriented. Strongly attached to the last remaining resource in the community–people–the mountaineer seeks to maintain the status quo of warm human relations rather than venture into the uncertain future.[30] For the mountaineer, change and progress have come through experience to mean another closing of a mine, unemployment, and more deprivation. They are people without hope of a better future.

The Legal System in Appalachia

In 1963, lawyers in the United States numbered about 300,000, a ratio of approximately one lawyer for 630 people.[31] Nationally, lawyers practice in the larger cities.[32] The Appalachian states, however, have an extraordinarily alarming shortage. In 1963, the states with the fewest lawyers per population were concentrated in Appalachia–South Carolina, one to 1286; North Carolina, one to 1230; Alabama, one to 1181. Even Pennsylvania had a ratio of only one to 941.[33] West Virginia may be typical; as of July 1, 1969, West Virginia had approximately 1800 active attorneys for a ratio of approximately one to 1000. The lawyers, however, are heavily concentrated in the largest city and capitol–Charleston. Several counties make do with only one or two, often the prosecutor and circuit riding judge. If we posit that the national average ratio of one to 630 is anywhere close to an adequate figure, West Virginia needs about 1050 new lawyers today. But we must remember that those figures were for 1963, prior to the lawyer-need-explosion mandated by the Supreme Court beginning with that year.[34] It has been estimated that compliance with the *Escobedo* decision alone would require 20,000 more attorneys in the criminal law field.[35] The 1963 figures more nearly reflect that ratio of lawyers needed to support an adequate legal system prior to the realization beginning in that year that the poor ought to have lawyers. We are, thus, left with the conclusion that there is a vast unmet need for legal services by the poor as well as the middle class,[36] and it is more intense in Appalachia.[37]

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[17] Luke, XI: 52.

[18] W. Shakespeare, *Henry the Sixth, Pt. 2*, IV, 2.

[19] C. Dickens, *Oliver Twist*, Ch. 51.

[20] Schwartz, "Changing Patterns of Legal Services," *Law in a Changing America*, 109 (G. Hazard, Jr., ed., 1968).

[21] Dunne, Bander, ed., *Mr. Dooley on the Choice of Law*, XXII-XXIII.

[22] A France, *LYS Rouge*.

[23] Mr. Justice Fortas has commented that to the poor:

> . . . the law has always been the hostile policeman on the beat, the landlord who has come to serve an eviction notice, the installment seller who has come to repossess . . . [the poor] hate lawyers, and they have reason to, because in their experience, the lawyer has been the agent, the tool of the oppressor.

Quoted in OEO, *The Poor Seek Justice*, 25, (1967).

[24] To the poor man, 'legal' has become a synonym simply for technicalities and obstruction, not for that which is to be respected.

> The poor man looks upon the law as an enemy, not as a friend. For him the law is always taking something away.

Address by Attorney General Kennedy, University of Chicago Law School, Law Day, May 1, 1964, quoted in Cahn & Cahn, "The War on Poverty: A Civilian Perspective," 73 *Yale L. J.* 1317, 1336 n.27 (1964).

[25] For him, it is simply 'the law' and what it does to him is definable by a single verb: to take.

> Too often, the poor man sees the law only as something that garnishes his salary; that repossesses his refrigerator; that evicts him from his housing; that cancels his welfare; that binds him to usury; or that deprives him of his liberty because he cannot afford bail. The adversary system on which our courts are based fails whenever one side goes unrepresented and judgment is entered by default.
>
> So I think it's small wonder then that there are so many of the poor who do not respect law. The poor man has little reason really to believe it is his guardian; he has every reason to believe it is an instrument of the other society, of the well-off, the well-dressed, the well-educated, and the well-connected. The poor man is cut off from this society–and from the protection of its laws. We make of him, thus a functional outlaw.

Address by Attorney General Katzenbach, in OEO & US Attorney General, *Conference Proceedings: 1965 National Conference on Law and Poverty* 61, 63 (1966).

[26] Whiteside, "Feasibility Survey of Legal Problems of Grannies Branch, Kentucky," *Conference Proceedings, supra*, note 25 at 104.

[27] *Id.*

[28] Weller, "Human Attitudes in Appalachia," 70 *W. Va. L. Rev.* 287, 300 (1968).

[29] *See* H. Caudill, *op. cit.*, Ch. 21.

[30] J. Weller, *Yesterday's People* (1965).

[31] Q. Johnstone & D. Hopson, Jr., *Lawyers and Their Work*, 16, (1967).

[32] *Id.* at 17.

[33] *Id.*

The provision of legal services for Appalachian poor has been, in a word, poor. In the Economic Opportunity Act of 1964, the nation declared that "It is, therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in a Nation by opening to everyone the opportunity . . . to live in decency and dignity."[38] In 1966, the Director of the Office of Economic Opportunity was instructed to "further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, counseling, education, and other appropriate services."[39] OEO has increased pre-existing funding for legal services fivefold and introduced 2300 new lawyers for the poor.[40] Despite the magnificent effort of OEO in funding new legal services programs for the poor, it has been estimated that only 15 per cent of the legal needs of the nation's poor are being served.[41] Rural America has been, by and large, ignored.

While 40 per cent of America's poor live in rural areas, only 20 per cent of OEO's legal services funds were budgeted to serve the rural poor in 1967.[42] Recognizing this misallocation, OEO promised in early 1967:

> Legal Services is making a special effort to fund more rural programs and to find more effective ways to meet the needs in rural areas.[43]

Congress, too, required OEO to place greater emphasis on rural-area programs by amending the OEO Act, declaring it to be national policy to provide opportunities enabling rural poor to remain in their areas and to become self-sufficient.[44] Yet, OEO plans for expanded legal service projects in rural areas were reduced because of budget rollbacks.[45] And as late as January, 1969, the Director of OEO Legal Services intensified again the slight to rural areas:

> It is our intention to give the highest priority for Legal Services money to building the strength of existing projects rather than extending service to new communities. We are asking those who seek to start new legal projects to look to versatile CAP funds, HEW resources, and money from the HUD model cities program.[46]

Recognition of the unwillingness or inability of OEO to increase funding for rural legal services is the recent message from HEW announcing its intention to establish a program for funding legal services programs:

> Despite all that has been done to provide lawyers for poor people and to assure their rights in the past few years, there yet remains a large unmet need for legal services for public welfare clients with problems in the fields of domestic relations, consumer loans, landlord and tenant relationships, etc. Community legal assistance agencies (those supported by OEO and the legal aid societies) report overwhelming demands for their services. Rural areas suffer from a particular dearth.[47]

Appalachia, in mid-1969, is without enough attorneys to serve adequately the fee-paying public, let alone its poor. This lack of legal service funding, however, may be a blessing in disguise. While it is the fundamental policy of this nation as articulated by the Supreme Court,[48] the federal government[49] and the official (such as there is) spokesman[50] for the American legal profession to provide legal services for the poor, it is more than somewhat ironic that this should be so.

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[34] The legal system has had to absorb the expansion of legal services as required by, to name a few, *Gideon v. Wainwright*, 372 U.S. 335 (1963) [lawyer required in serious criminal cases] ; *Douglas v. California*, 372 U.S. 353 (1963) [lawyer required on appeal] ; *In re Gault*, 387 U.S. 1 (1967) [lawyer required in Juvenile Court proceedings] ; *United States v. Wade*, 388 U.S. 218 (1967) [lawyer required at critical stages in the criminal process] ; *Johnson v. Avery*, 89 S. Ct. 747 (1969) [legal services required to make access to the courts a reality for the poor] .

[35] Cavers, "Legal Education in Forward-Looking Perspective," *American Assembly, Law in a Changing Society* 139, 142 (G. Hazard ed. 1968).

[36] Report, "Group Legal Services," 39 *J. St. Bar Calif.* 639, 652-659 (1964) [citing studies] .

[37] *See* text *supra* at note 33, 34. Robb, "HEW Legal Services: Beauty or Beast?" 55 ABAJ 346, 347 (1969); Robb, "Alternate Legal Services Plans," 14 *Catholic Law* 127, 141 (1968).

[38] Economic Opportunity Act of 1964, 42 U.S.C. Sec.2701, Sec.2 (1964).

[39] Economic Opportunity Amendments of 1966, 42 U.S.C. Sec.2809 (a)(3), Sec.202 (a)(3) (1966) (1969, Supp.).

[40] Robb, "HEW Legal Services: Beauty or Beast?" *op. cit.*

[41] Robb, "Alternate Legal Assistance Plans," *op. cit.*, p. 141.

[42] *Id.* at 129.

[43] OEO, *The Poor Seek Justice* 12 (1967).

[44] OEO Act of 1964 as amended, Act of Dec. 23, 1967, 81 Stat. 691, Sec.20 of Title II.

[45] Robb, *supra* note 41.

[46] "Director's Column" 2 *Law in Action* 4, No. 8 (Jan., 1969).

[47] HEW State Letter No. 1053, Nov. 8, 1968, 2 *C.C.H. Pov. L. Rep.* Sec.9118 (1968).

[48] *See* cases cited *supra*, note 34. In *NAACP v. Button*, 371 U.S. 415, 443 (1963), the court noted in reaching its decision that there is a dearth of attorneys who are willing, voluntarily, to take on unprofitable and unpopular cases. The court has apparantly given up in despair that lawyers will fill this need in *Johnson v. Avery*, 89 S. Ct. 747 (1969), where it held that a "jailhouse lawyer" satisfied the due process requirement for legal services. Mr. Justice Douglas' opinions in that case and in *Hackin v. Arizona*, 88 S. Ct. 325 (1967), are especially interesting.

[49] Text, *supra*, at notes 38, 39, 47.

[50] At its February, 1965, meeting, the American Bar Association's House of Delegates recognized that there existed an unmet need for legal services by the poor and supported OEO efforts and other groups "in the development and implementation of programs for expanding availability of legal services to indigents and persons of low income." 90 *Reports of ABA* 11 (1965).

Thirty-one years ago the remarkable Professor Karl Llewellyn analyzed the then current state of the legal profession in an article that is as timely now as when written. Professor Llewellyn saw the problem of the legal profession as the failure of the organized bar to adapt to changing conditions. Rather than restrain lay persons or agencies from providing needed services more efficiently at less cost, the bar should reform itself:

> Real progress toward cure lies in *group action* to recognize the getting of business and the doing of it in keeping with the age; in standardizing, spreading, and lowering the price of service. *Once service is sure,* the bar can outpublicize any law competitor–wherever its service can itself compete; but let service fail, and the flank attack that opens can cripple and kill. (emphasis in original)[51]

A quarter century later, Elliott Cheatham, the Charles Evans Hughes Professor of Law, Emeritus, at Columbia, in giving in 1963 Carpentier Lectures arrived at the conclusion that:

> Much legal service needed by the middle class is not rendered at all, or else it is performed by laymen inexpert in the law and free from professional control, or it is performed by lawyers who are retained by intermediaries under no supervision by the courts, the profession or any public body.
>
> A companion conclusion is that the old ideal of our profession–the individual independent lawyer directly service the individual independent client who chooses his own lawyers and pays the fees out of his own funds–is challenged by the facts today.[52]

The American legal system is one in which "only the rich can afford to invest in justice's dividends . . . [and which] . . . the middle class has found to be obsolete, cumbersome–and too expensive in monetary, psychological and temporal terms . . . [and] . . . they do not buy legal services–except as a last resort. Instead they have used the legal profession to develop a set of substitutes–a legal system which operates without benefit of LL.B. wherever possible."[53] The legal system, thus, consists largely of insurance companies, claims adjustors, title insurance companies, bank trust departments, arbitration, and "a network of privately negotiated consensual agreements."[54]

> [These arrangements] enable the middle class to minimize its contact with the legal profession . . . and because as a last resort, either party usually can threaten to hire a lawyer and utilize all the law's subtlety, delay, refinement, insensitivity and winner-take-all principle to vitiate the worth of victory for either side.[55]

In one of the most significant articles by the most innovative of legal commentators today, Edgar and Jean Cahn contend that the legal system is at a crisis point.

> –the *product* we are selling–quality legal services–is virtually unuseable for the prupose for which sold.
>
> –the *production* and distribution system we are currently attempting to expand is basically obsolete.
>
> –And, the *manpower supply* is curtailed sharply by unnecessary, nonfunctional protectivist guild restrictions.[56]

They conclude that "the ends of justice will not be served if all . . . [a legal service program does] . . . is foist on the poor a legal system which the middle class has rejected as obsolete, cumbersome, and too expensive in money, psychological strain and investment of time."[57]

The special needs of Appalachia, thus, are a legal services program that will contribute to a revitalization of the Appalachian legal system and the immediate liberation of the poor from the culture of poverty. These mighty goals can be accomplished by the implementation of the ideals inherent in the American concept of democracy–individual dignity, liberty, and equality–as our guiding principles. In translation to particulars, this means that an Appalachian legal services program must:

1. Be dedicated to the proposition that access to legal services is a matter of legal right,[58] to be provided with graciousness and understanding.

2. Be dedicated to compelling society (*read* government) to complete the quantitative goals inherent in the modern welfare state of liberation of all the American people from the tyranny of government, ignorance, and want. Included, but not delimiting, are such fundamental rights as food,[59] shelter,[60] clothing,[61] health,[62] education,[63] and economic justice.[64]

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[51] Llewellyn, "The Bar's Troubles and Poultices–and Cures?" 5 *Law and Contemp. Prob.* 104, 134 (1938).

[52] E. Cheatham, *A Lawyer When Needed* 79 (1963).

[53] Cahn & Cahn, "What Price Justice," *op. cit.*, p. 937.

[54] *Id.* at 938.

[55] *Id.*

[56] *Id.* at 930. Compare President Nixon's recent health report:

> This nation is faced with a breakdown in the delivery of health care unless immediate concerted action is taken by Government and the private sector. Expansion of private and public financing for health services has created a demand for services far in excess of the capacity of our health system to respond.
>
> The result is a crippling inflation in medical costs causing vast increases in Government health expenditures for little return, raising private health insurance premiums and reducing the purchasing power of the health dollar of our citizens. . . .
>
> What is ultimately at stake is the pluralistic, independent voluntary nature of our health care system. We will lose it to pressures for monolithic Government–dominated medical care unless we can make that system work for everyone in this nation.

N.Y. Times, (city ed.) Col. 5, at 40 (July 11, 1969).

[57] Cahn & Cahn, *supra,* note 53 at 929.

[58] *American Assembly, Law and The Changing Society: Final Report* 7 (1968). *See also Johnson v. Avery,* 89 S. Ct. 747 (1969); *United Mine Workers v. Ill. State Bar Assn.,* 389 U.S. 217 (1967); *Brotherhood of R.R. Trainmen v. Virginia,* 377 U.S. 1 (1964); *NAACP v. Button,* 371 U.S. 415 (1963).

[59] *Hernandez v. Freeman,* Civil No. 50333. (N.D. Calif., filed Dec. 30, 1968) [T.R.O. requiring a food program for all California counties].

[60] Sax & Hiestand, "Slumlordism as a Tort," 65 *Mich. L. Rev.* 869 (1967) [advocating application of tort theory to eliminate slum housing industry].

[61] Harvith, "Federal Equal Protection and Welfare Assistance," 31 *Albany L. Rev.* 210 (1967) [welfare a constitutional right under Fifth Amendment].

[62] *Morris v. Williams,* 67 Cal.2d 733, 63 Cal. Rptr. 689, 422 P.2d 697 (1967) [cutback of funding for medical services restored].

[63] *Hobson v. Hansen,* 269 F. Supp. 401 (D.D.C. 1967), *aff'd sub. nom. Smuck v. Hobson,* 408 F.2d 175 (1969) [educational quality must be equal throughout school system].

[64] *Shapiro v. Thompson,* 89 S. Ct. 1322 (1969) [durational residency requirement for welfare held unconstitutional].

3. Be dedicated to the innovative creation of new legal theories and the vigorous assertion (in all forums where law is made) of "demands for full citizenship, for opportunity, for participation "hitherto thought to be non-legal political demands."[65]

4. Be established on the assumption that (except for fee-generating cases where a lawyer can be hired) the full range of legal services in all areas of the law commonly made available by the legal profession to the fee-paying public will be provided to the poor. In other words, there must be no limitation on the kinds of cases handled, such as the practice of refusing divorce cases existing in some legal services programs.[66]

5. Be dedicated to "democratization of justice–the conversion of a guild production system into a democratically-owned enterprise which offers special incentives to professionals to be responsive to consumer needs rather than to build a hierarchy of prestige, salary, and power based on successive stages of withdrawal from reality, need and the consumer perspective."[67] This means that the poor must be given a share and a voice in the operation of *their* legal service program as well as being trained and employed in providing legal services as para-professionals, lay aides, lay advocates, and lay judges.[68]

With these five principles in mind, I wish now to share with you some personal biases on how an Appalachian legal services program should be constituted:

First, an Appalachian legal services program should be a private, not-for-profit corporation. A wholly new private law firm should be created, devoted exclusively to serving the poor. It should not be an agency of state or local government. It should be isolated from political manipulation, pressure, and patronage. With the intense politicalization seemingly endemic to every institution in Appalachia, a private, not-for-profit corporation appears to be the only answer. It also allows for the poor themselves to control *their* legal services program and make democratic decisions on the direction the program should take.

Second, an Appalachian legal services program should be statewide in operation. Fragmentation, isolation, and paucity of efforts is the inevitable result of the hit-or-miss establishment of small one-, two-, or three-man programs here and there throughout the region. Furthermore, such small programs are especially susceptible to state and local manipulation, which is in itself a response to federal manipulation. OEO in Washington has not been above the most minute decision-making on personnel policies of small local programs. Likewise, state and local agencies, particularly local bar groups, have not been above applying the most intense pressure on local programs, even to the extent of assuming that they have the prerogative of deciding what cases are suitable law cases. No bar association would dare assume such authority over the private practitioner. Why should it do so in the case of legal service programs? Only a statewide program will have sufficient prestige and political clout to resist both federal and local manipulations.

Third, an Appalachian legal services program should be of sufficient size to provide comprehensive legal services for the entire poverty population of the state. The size should reflect the worth of a lawyer's contribution to justice and the elimination of poverty. A ratio of one lawyer per 500 poor persons, thus, seems reasonable. Since there are approximately 500,000 poor West Virginians, that state alone needs 1000 *new* legal services attorneys, and the entire Appalachian region needs 5000. If we are really serious about the total elimination of poverty in Appalachia and are really serious about our proud boast of "equal justice under law," nothing less will do. The cost per year in West Virginia: a mere $20,000,000; in the region, only $100,000,000.[69]

Fourth, An appalachian legal services program should be centrally organized with its headquarters group located in the state's capitol city and branch offices located throughout the state. The headquarters group should include a director as the chief executive officer of the program. He must be an attorney of substantial practice experience and possessed of statewide prestige. A deputy director would assist the director and have primary responsibility over financial affairs of the program. Also in the headquarters group would be special units with responsibilities for administration and finance, education and training, research and reform, special trials and appeals, and technical support composed of economists, psychologists, and sociologists.

The technical-support unit would provide extra-legal interdisciplinary support for the staff attorneys in the field and other specialist units in the headquarters group. The administration and finance unit would provide the housekeeping support for the program. The education and training unit would provide intra- and extra-program educational support. It would develop comprehensive and continuing legal educational programs for the staff attorneys and lay assistants as well as for the citizens of the state. The research and reform unit would have primary responsibility for developing the reform direction for the program and providing comprehensive research support for that effort as well as for the daily business of the staff attorneys. The special trials and appeals unit would provide experienced trial and appellate advocates as support for the staff attorneys.

The branch offices of the legal services program should be scattered throughout the state, in close proximity to the location of the need. Each branch office would employ enough attorneys to fill the local need and be responsible to the local priorities as established by the local governing board. These boards should be composed of equal numbers of the poor, the legal service attorneys and others elected by those two groups. Although the structure of the program will be centralized, decentralization and local responsibility and participation must be stressed at the branch office level.

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[65] *See* material cited in ns. 59-60, *supra.*

[66] The debate on this point is still current. *Compare* Bellow, "Reflections on Case-Load Limitations," 27 *Legal Aid Briefcase* 195 (1969) with Getzels, "Legal Aid Cases Should Not Be Limited," 27 *Legal Aid Briefcase* 203 (1969).

[67] Cahn & Cahn *supra,* note 53 at 959.

[68] *American Assembly, Law and A Changing Society: Final Report* 6 (1968).

[69] $100 million is less than one-half of the unused funds for federal food programs turned back to the U.S. Treasury by the Secretary of Agriculture on June 30, 1968. *SCLC v. Freeman,* Civil Action No. 1584-68. (D.D.C., filed June 27, 1968).

Fifth, senior staff attorneys would be the branch office directors. They should be about thirty to thirty-five years old and have five to ten years' practice experience in legal service programs. The staff attorneys would be the front-line lawyers for the program. They should be about twenty-five to thirty years of age and be possessed of all the idealism and energy of recent law graduates to attorneys with up to five years' practice experience. Preferences should be given to recruiting these young attorneys from the area's law schools in hope of firing a desire to remain in Appalachia. Recent law graduates from extra-regional law schools should also be recruited to provide welcomed diversity.

As I mentioned earlier in my address, this conference is a sign of hope for our people, our profession, and our beloved Appalachia. As Judge Learned Hand said to the Legal Aid Society of New York in 1951:

> **If we're to keep our democracy, there must be one commandment: Thou shalt not ration justice.**

remarks of

BERT H. EARLY*

Responsibility of the Legal Profession

It is a privilege for me to represent the American Bar Association in this important conference. I have come here today for several reasons:

First, I am a native of Appalachia. I was born and spent the early years of my life in the coal fields of Southern West Virginia. I have practiced law in that state and in the hills, valleys, and villages of Eastern Kentucky, Southeast Ohio, and Southwest Virginia. It is quite natural then that the one who conceived this conference, Junius Allison, a native of North Carolina, and I should have shared many a dream and thought about this unique section of our nation.

Second, I am here because of my conviction that the members of the legal profession have the ultimate responsibility to make our society function. It is an imperfect society, to be sure; it is a pluralistic society, with an incredible number and variety of influence and forces that frequently make its forward progress uncertain and unsteady; but for all of its imperfections and its pluralism, it is at the same time a remarkably resilient society. This is so, I am convinced, because it was painstakingly conceived and artfully designed as a society based upon the rule of law. It is a society founded upon man's noblest dreams of freedom. It is a society that, at its best, accords opportunity for participation, develops a sense of responsibility and self-determination, and fosters a flexibility that strengthens and regenerates its institutions. It has been the lawyers of this society, from George Wythe, the great teacher of law of Colonial Williamsburg, to the legal giants of today, that have fashioned, nurtured, and preserved our democratic society.

Third, I am here also because I believe in the purpose of this conference, and I want to lend such support to it as my presence may attest.

On the other hand, I am not here as an expert in the administration of legal aid programs. In fact, in this field, I may be the least knowledgeable individual who will occupy this platform. Rather, I came here today to share a philosophical viewpoint with you. If I may borrow a line from Charles Dickens, I came to tell "A Tale of Two Cities." The first is a story of failure and one that is unworthy of our profession. The second is a spine-tingling drama of which I shall always be intensely proud. The tale in each city involves lawyers.

The first city is located in Appalachia. It is a city of fair size and population as Appalachian cities go. It has a reasonably typical group of lawyers who compete fiercely but ethically for the legal representations available to them. Its bar association is weak, almost totally social in nature, meeting ten times a year for lunch and once a year to play golf with the doctors. Members of the bar association pay little dues and less attention to their association. They expect nothing from it, and they put nothing into it. There is philosophy among the members of the bar that assumes that all who need legal services know where, and when to get them.

Once in this city a small group of practitioners wondered if all who needed legal services were receiving them. This group had the temerity to raise the question with the officers of the bar association. The officers quickly disposed of the matter by appointing the inquirers as the members of a committee to investigate the issue. The committee investigated, found a need, and reported to the association; the association's members approved the recommendation for the establishment of a part-time legal aid office without much discussion, without funding, and without really caring. The office opened, it floundered, and, in due course, it closed. Legal aid came, lived briefly, and died in this Appalachian city–almost unnoticed by the press, the courts, the community fund, the public, and the legal profession.

The poor of that city were then, and continue to be today denied access to the lifeline of social fulfillment–the right to due process in a law society. Those people continue to be denied legal services in a culture that is based upon access to the machinery of justice.

The other city in this tale is a large Southern city near the Mississippi Delta, rich in French tradition and culture. It was in this city that the American Bar Association's House of Delegates met some four and a half years ago.

Until that time, the ABA had paid little more than lip service to the cause of legal aid and defense of indigents. It had left the burden to the National Legal Aid and Defender Association, and it had made available only very limited funds in support of legal aid. The ABA's response had not been unlike that of the city in Appalachia to which I have referred. But suddenly, out of a federal statute that made no express provision for legal services for the poor, the Director of the newly-created Office of Economic Opportunity began to talk about establishing "supermarkets of legal and social service."

The reaction was electric! Some bar leaders across the country instantly ran up the flags of socialism, heresy, ethical

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**Executive Director, American Bar Association.*

standards, independence of the profession, and the like, but not so the then president of the American Bar Association, Lewis F. Powell, Jr., of Richmond, Virginia. Instead, he held the reins of leadership and direction, and, under his strong guidance, the House of Delegates–275 strong, representing 90 per cent of the organized bar of this country–adopted a historic resolution endorsing the concept of federal financial assistance to legal aid in America. It is all the more remarkable that this resolution was adopted without a single dissenting vote.

The ship was thus launched, but, make no mistake about it, the seas that lay ahead were neither fully charted nor entirely calm. There were a number of states in which the leadership openly and even violently disagreed with the position of ABA. In others, there was only indifference.

In spite of the improbabilities, progress was made. A national advisory committee was created by the OEO; the ABA and NLADA were consulted on the appointment of a national director for the newly-created office of the Legal Services Program; a rapport was developed between the staff of OEO and the personnel of ABA and NLADA; ABA increased its funding to NLADA, expanded its committee activity, and began to devote new talent and energies to the business of providing more and better legal services to the poor.

What is the lesson to be found in this tale of two cities? It is the lesson of professional responsibility of the members of the legal profession acting in concert under the aegis of the organized bar. Bernard G. Segal, president-elect of the ABA, put it this way in an address before the Atlanta bar last year:

> In our modern, complex society, the individual lawyer, acting alone, can no longer be effective in meeting the call of our generation. He must still provide the leadership and the inspiration, but it is only by his participation in the organized Bar, through all its various segments, that he can make his full contribution to the urgent needs, the enlarging developments of his time, in the endless quest for the rule of law.

The lesson to be learned at this conference is not what you must do or how you must do it. There are many choices, and they remain in each case with you. No one here intends to blueprint your precise steps. There is no computerized program that you must follow. There is no best way of providing legal services for the poor in every state or every community. The purpose of this conference is for you to listen and, hopefully, out of the hearing of what has worked elsewhere, to decide what might be worthy of experimentation in your state or community. In an address before the Washington State Bar Association last September, ABA President William T. Gossett made the point crystal clear when he said

> The intricate and diffuse task of providing legal services to all who need them is one to which we must find a solution that will necessarily involve new approaches and new expedients.

It is clear that a variety of approaches have worked elsewhere. The proof is evident in these figures: When ABA endorsed the legal aid concept, there were about 150 legal aid offices in this country. Three years later, there were 511 legal aid offices with paid staffs and 210 defender organizations. By January of this year, there had been a 600 per cent increase in legal services for the poor since the enactment of the Economic Opportunity Act of 1964.

Edward Kuhn of Memphis, president of the American Bar Association in 1965-66, has stated that the OEO Legal Services Program has offered our profession "its most exciting challenge and greatest opportunity to realize its ancient and honored goal: equal justice for the poor."

The whole story has not been written, for there remain in the country areas where legal services are not being provided. This is, I believe, largely due to the failure of the bar in these areas to accept its responsibility. In an exhibit to a recent joint statement by ABA, NLADA, and the National Bar Association to the Senate Subcommittee on Employment, Manpower, and Poverty, in support of the Legal Services Program of the OEO, there were listed some four categories of cities that have unmet legal needs. At the bottom of the exhibit, after listing those several cities that are not meeting the needs, the statement concluded with the words "and almost all of Appalachia" is not meeting the legal needs of the poor.

If that condition is to be changed, it can only be done if and when the organized bar assumes the responsibility for providing legal services to the poor of Appalachia. If you and those whom you represent are willing to accept that responsibility, there are those available to you who have the experience, knowledge, and funds to convert your dreams to fact. In that context, I would commend to your thoughtful attention the excellent article appearing in the April, 1969, issue of the *North Carolina Law Review* by Dean Kenneth Pye of Duke Law School and George C. Cochran, director of the Duke Legal Aid Clinic. It deals fully and effectively with the development in recent years of new approaches to providing legal aid and concludes with a model program for the future in the state of North Carolina.

Justice cannot be denied to any significant segment of our people if we are to continue to function as a free society. Alienation, disaffection, and despair will ultimately become instability, unrest, and violence. The great Boston lawyer, Reginald Heber Smith, once observed that nothing so much rankles man as a brooding sense of injustice; sickness man can put up with, but injustice makes him want to tear things down.

In a recent address to the National Defender Conference, HEW Secretary Robert Finch said:

> We owe it to our *profession* to see that the law is made rational and accessible, and not an obstacle course of procedural complexity which denies injustice to all but the most hearty.
>
> We owe it to our *people* to make our institutions

> understandable. . . . We owe it to *our Nation's future* to see that the disadvantaged are participating citizens. . . .

It is, I believe, imperative that we make a new commitment of responsibility to ensure that the system works for all members of our society; a new commitment of service to our profession and those whom it would serve; and a new commitment to orderly and measured change. With these commitments, legal services for the poor of Appalachia will become a reality and the people of this great section of our nation will thereby attain their full rights of citizenship and participation in a free society.

remarks of

J. WAYNE REITZ*

The Federal Role in Law School Clinical Experience Programs

The Higher Education Amendments of 1968 authorized a specific program of assistance to law schools with the inclusion of Title XI, Law School Clinical Experience Programs. This is the first authorization to provide assistance to law schools through a major funding agency of the federal government. It is unique among programs administered by the Office of Education in that it provides support for post-baccalaureate study by those not planning to enter the education profession. It is also unique in that it is the only, or at least one of the very few, pieces of legislation in the entire education field which supports a specific policy about a particular kind of course or curriculum.

It all began in the spring of 1968, when Senator Wayne Morse and his colleagues on the Subcommittee on Education of the Committee on Labor and Public Welfare in the United States Senate held a "seminar" with a number of law school deans and Professor Michael Cardozo of the Association of American Law Schools. The purpose of the hearing was to discuss the future needs of legal education in this country. As an outgrowth of these discussions, Senator Morse and his committee included in Senate Bill 3098 a title authorizing the Law School Clinical Experience Program. This prevailed in the Senate. The bill reached the conference committee of the House and Senate, where House members encountered it for the first time. The Conference Committee made it part of the final package of legislation.

The title is a simple and straightforward piece of legislation. It authorizes the Commissioner of Education to enter into contracts with accredited law schools in the states for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases. The act then proceeds to list the types of expenditures that can be incurred, such as planning, training of faculty members, and salaries for additional faculty members, travel, and per diem for faculty and students, reasonable stipends for students for work in the public service performed as a part of any such program at a time other than during the regular academic year, and, such other items as are allowed pursuant to regulations issued by the Commissioner. It further stipulates that no law school may receive more than $75,000 in any fiscal year.

Immediately after the passage of this legislation in October of 1968, the Office of Education assigned the administration of Title XI to the Division of Graduate Programs in the Bureau of Higher Education. In anticipation of an appropriation for Fiscal 1970, the division was requested to prepare guide lines and regulations by February 1, 1969. This task was to be undertaken without the benefit of additional personnel, though we were authorized to employ consultants. Fortunately for the division and the bureau, Mr. Fred Anderson, a recent graduate of the Harvard Law School, who is knowledgeable with respect to law school clinical experience programs, was on assignment to the bureau on a Washington Internship in Education. We drafted Fred to assist in developing the guide lines and regulations.

After the first draft, we invited in consultants from three law schools with substantial experience in clinical programs. They made valuable suggestions for improvement. In addition, we conferred informally with a number of other people, including Professor Michael Cardozo of the Association of American Law Schools and Mr. William Pincus of the Council on Legal Education for Professional Responsibility. We even had the privilege of discussing the second or third draft guide lines with the Board of Directors of CLEPR at its annual meeting held late in January. We were particularly grateful for the assistance of Patrick Hughes and Junius Allison, both of the National Legal Aid and Defender Association, who made helpful additions to the guide lines, particularly in the area of post-conviction proceedings, where students might get valuable clinical experience. (I might add that NLADA is producing useful side effects at this conference: We along with law schools will be able to use the fruits of your deliberations to improve the administration of the program once it is funded.)

Our task in developing guide lines and regulations was completed approximately on schedule. These are now quietly resting on my desk, pending an appropriation that appears to be unlikely at this session of the Congress since the Administration made no request for funds.

So much for a bit of history and the house-keeping duties that have been performed to date.

I should now like to point out some of the features of the program as they are reflected in the guide lines being held in cold storage. First of all, we emphasize the desirability of supporting live clinical experience reflecting lawyer-client relationships in a variety of contexts. As the law states, to

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**Director, Division of Graduate Programs, Bureau of Higher Education, Office of Education, Department of Health, Education, and Welfare.*

the extent practicable, these should involve the preparation and trial of cases. We recognize, of course, that the reality of law practice may be found in a wide variety of circumstances involving lawyer-client relations. Circumstances that involve live disputes among people or institutions, and the honest application of legal skills to the resolution of substantive problem, come within the practical experience anticipated under the program. Thus, while the act states that preference should be given to programs involving the preparation and trial of cases, a proposed procedure would not be ineligible if it looks to placing students in situations that in fact provide practical experience in the resolution of controversies where litigation is inappropriate.

We also emphasize giving priority to legal processes that are in need of the greatest help and that are attempting to deal with social problems and social inequities.

We shall also look to the clinical program as being well integrated into the faculty and administrative structure of the law school. Students are not to be "loaned out" to a public defender office or some other agency with legal responsibilities. At the same time, the program should be involved with community organizations such as action programs or civic groups and community institutions or agencies such as the local bar, legal aid society, and welfare agencies. These should be consulted by the proposing school wherever applicable in the formulation of the proposal.

It is desirable to maximize student participation by keeping planning, overhead, and faculty salaries to a reasonable proportion of project cost. As you have noted, the act does not permit students to receive stipends for participation during terms when they are pursuing regular academic studies. On the other hand, in those terms when students are not regularly enrolled, they may receive reasonable stipends. These we believe should not exceed $500 a month, prorated when the participation is less than a month. The total stipend in any twelve-month period should not exceed $2,000 per student. The purpose of allowing up to $500 a month is to permit and encourage the law student of modest means to choose to continue his clinical education by participating in the clinical experience program during vacation periods.

A final consideration to be injected concerns the variety of "clients" to be served by the program. For the most part, those participating in the program would be dealing with indigent clients. The proposal should indicate the criteria for indigence that the law school plans to observe. It is recognized that indigence standards will vary with the locality and program. This requirement is, of course, inapplicable in cases where courts determine indigence and the standards to be observed. In the interest of clients and of acceptability to the larger community project, proposals must provide for a year-round program, unless the nature of the project renders such a program clearly unnecessary.

This, then, is a brief outline of some of the major considerations in the development of guide lines by law schools wishing to submit proposals. Guide lines as now developed have not yet been cleared with the Bureau of the Budget nor have the regulations been approved by our Legal Counsel and published in the Federal Register. As a result, we are not at liberty to give them free circulation. Should, however, an appropriation be made, we would take quick and appropriate steps to place them in the hands of all deans of accredited law schools.

As one final comment, I should like to mention what I consider as two unintentional oversights in the wording of the act. The first is that the act provides only for contracts. In a program of this nature, it is more satisfactory to provide the assistance in the form of grants. It is, therefore, my hope that the act will be amended to include the word "grant" as well as the word "contract." Another omission is the limitation imposed by the words "establishing or expanding programs." Our legal staff is inclined to interpret this precisely according to the wording. If that be true, then a law school that has just started a program with assistance from such an organization as the Council on Legal Education for Professional Responsibility would be ineligible to continue the program under the act since it would be considered as having been established. This problem could be easily surmounted by adding the word "support" along with the words "establishig and expanding." I view the legislation as an opportunity to give some continuing support to legal education that heretofore has been neglected in federal assistance programs.

As I listen to legal educators, it is my distinct impression that the authorization to support clinical law experience programs has the potential of giving a new dimension to legal training that is increasingly being recognized as significant. At the same time, there can emanate from such programs a significant social by-product in providing legal assistance to many who are either being denied counsel or who are delayed in the resolution of their legal controversies.

remarks of

MAURICE FINKELSTEIN*

Legal Services Program has been made a full operating division within the OEO. Expansion of headquarters staff to allow for greater efficiency in responding to the needs of local legal services offices is envisioned.

Both Presidents Johnson and Nixon asked for increased funding of legal services programs. Although this is up to Congress, of course, prospects for increased funding look bright.

There has been little money for new legal services programs since June, 1967. The Washington office has been operating in a "holding action" since then. The only expansions that have taken place have been at the cost of other existing programs receiving cuts or having been deactivated.

The sourthern part of the Mid-Atlantic Region does not now have many legal services programs. Compared to the rest of the country, the region is greatly underfunded, as are the Southern and Western Regions. If, indeed, Congress does increase available funds, they will be funnelled to those now underfunded areas. In fact, Lenzner, the new Legal Services Program director, has designated the area as having priority status for funding of new programs. Just before the end of the fiscal year, in this area three new programs were funded.

The OEO emphasis is on full-time legal services, supplemented by Reginald Heber Smith Fellows and VISTA lawyers. This year, there are 250 available Reginald Heber Smith Fellowships. Over 1200 young attorneys applied for them. This indicates a tremendous interest in going into full-time legal services work on the part of our youth. OEO will do its best to open opportunities for these young lawyers to work in legal services programs. The legal services programs are attracting the most capable young lawyers now graduating from the law schools. OEO does not expect most of them to become legal aid careerists. At the same time, OEO does expect them, after their three- or four-year stint with a legal services program, to continue to be of service to their communities once they are in private practice.

**Director, Mid-Atlantic Regional Legal Services Program. Mr. Finkelstein did not have a prepared text. What appears here is a paraphrasing of his remarks from notes taken by the editor at the conference.*

remarks of

CHARLES H. MILLER*

The use of law students in a legal service program for the poor has been in vogue for a number of years. This has been true since the apprenticeship days when students were used as clerks and "practiced" on non-fee-paying cases. Later methods of legal education called for different use of students by lawyers: part-time jobs in law offices or as clerks in some of the early legal aid offices.

The extent of participation in client problems varied. At Harvard and some of the early legal clinics (University of Tennessee in 1915), they were allowed to counsel clients on a non-supervised basis. Beginning in 1930 at Southern California, in 1931 at Duke University, and in 1947 at the University of Tennessee, the programs for legal services for the poor as participated in by law students was brought into the law school and made a part of the curriculum as a teaching device. These programs were staffed by professional personnel–either members of the faculty or associate members of the faculty from the local bar, or a combination of both.

The early legal clinics were usually justified by presenting them as a means by which law students could "be familiarized with the practice of law" and could develop techniques of practice. At the same time, professional responsibilities could be inculcated. Those clinics in which the law school participated and for which it accepted responsibility for supervising law students developed seminars to instill further techniques of law practice (such as interviewing, planning a campaign at law, and developing procedural techniques with the practice of law) and also used this law office relationship to develop in the students a philosophy of law practice that would basically be an acceptance of professional responsibility for legal services for the poor.

With the advent of the National Council of Legal Clinics and its emphasis on professional responsibility while using the clinic as a teaching device in this area, more and more programs only indirectly connected with service to clients began to develop. Although useful in developing a concern for the total administration of civil and criminal justice, these programs were not necessarily centered in services for the poor.

With the coming of the OEO-financed legal programs for the poor and the increase in case loads for local legal aid societies and neighborhood offices, law students were again looked to for more and more client services. It was natural to tap this source of knowledge, energy, enthusiasm, and concern and to challenge the student's desire to be of help in legal reform and legal assistance to the poor. This has been done in legal clinics organized to function in the law schools. The differences among these law school clinics lay in how much time the law students were expected to devote to the clinic and how they were to be used. Were they to be assistants (clerks) to the lawyers as in the early programs or were they to be actually involved in the lawyer-client relationship?

The University of Tennessee Law School Clinic, perhaps, can illustrate the time a student can devote to law practice without encroaching too much on his other law school activities.

The clinic at the University of Tennessee is operated as a large law office with nine members of the professional staff and an average of eighty law students participating in the program. We maintain a suite of offices in the law school, as well as two neighborhood law offices in target areas within the city. The student in the Legal Clinic has always had the responsibility of interviewing the clients, preparing the cases in every sense of the word: trial; advice; counselling; etc., until completion. The students are thus practitioners of the law and not clerks, but they are, of course, under the supervision of qualified teaching personnel who were members of the practicing bar as well as being connected with instructional staff of the College of Law.

The students are conditionally admitted to the practicing bar under a court rule that allows them to practice in all courts of the state, from the lowest to the highest. Our students this week will be appearing in every court including the courts of appeal–both criminal and civil. The rule requires that the Board of Bar Examiners approve the program in which the students participate as meeting the requirements for supervision, classroom seminars, being law school oriented, etc. The program director, after appproval, then certifies the students to the Supreme Court, which, in turn, approves them for practice and certifies their names to the clerk of the local court as qualified to practice before all the courts of the state of Tennessee and to act in every capacity any attorney might. The only limitation to this license to practice is that the student must be under the supervision of a law school clinic program. Supervision as used in this rule of court does not mean actual physical presence.

**Director, University of Tennessee Legal Clinic.*

The students are not allowed to go out on their own until they have demonstrated under supervision and in the courtroom their ability to handle cases to the satisfaction of the supervising staff members who, when proper to do so, will allow them to assume full responsibility of cases in court alone. There is no question about their ability to assume this responsibility, nor is there any question about the quality of the work performed by them. Not one criticism has ever been made to the bar or to the court by clients who believe the services performed were inadequate or not to their satisfaction. Perhaps the teaching staff within the Legal Clinic will never be totally satisfied with anything less than perfection, but certainly the performance of these law students is far superior to the performance of lawyers under similar circumstances.

Why should their performance be superior? There are many reasons. The first is the students' enthusiasm and dedication to the program itself. These students do not take the course or perform these services merely for credit, although credit is given in the law school curriculum. They do it because of their enthusiasm and dedication to the program of services to the poor. They realize that they are, as members of the practicing bar, performing services that are required of a professional monopoly. In addition, it's a challenge to them to see that no person goes without the best in legal service though he cannot afford to pay a fee.

Another reason why he can perform these services in such an excellent manner is that he actually gives more time to the case than would a practitioner who had a similar case before him. The number of cases that each clinic student handles is limited. He therefore has more time, under supervision, to give to the individual client and his particular problems. This is reflected in the plan of campaign for his client and also in the enthusiastic endeavor on the part of the student and his supervisor in the area of legal reform.

The student and the supervising faculty member have a great opportunity to observe the law in practice and to evaluate it as it relates to individuals or segments of society—not necessarily how it looks on paper, or perhaps what the legislature intended. They see it in the every-day market place as it relates to people and particularly the segment of the society that we refer to as the poor; those who cannot afford the services of a lawyer, or who have never used the services of a lawyer because of poverty. Remedial case law and legislative reform is the result of this participation.

In addition, the students are used throughout the target neighborhoods to talk with interested groups of persons in a program of "preventive law." The objective of these programs is to inform the poor about landlord-tenant relations, installment purchasing, small loan hazards, community problems regarding health, welfare, housing, etc. Discussing these problems with the poor from the point of view of technical application of the law as well as their every-day relationship with the law, helps the student to see how the law is administered as well as seeing the need for reform.

The case results indicate the value of the services performed. The carryover by the students into the profession indicates the value of the program to the students and the practicing bar.

Every student will handle one or more significant cases in court. When we say "significant cases," we are thinking of petitions for hearings before administrative boards, debt settlements, landlord-tenant cases, some criminal cases, social security matters, retirement, welfare cases, etc.; cases other than domestic relation problems, not that these are not important. Some will handle incorporation matters, some will negotiate with different agencies relating to community corporations formed on a non-profit basis for programs in the areas served. They will prepare cases for trial and try cases in every court within the court system of our area, whether in traffic court, the court of appeals, or the Supreme Court.

There is no question that students' contribution to the program for the poor is significant. There is, however, a continued question on the part of some as to whether or not law students can be used in other significant programs for the poor outside the law school community, which programs, however, still must be law-school oriented. We are thinking here of "extern" programs.

In the Appalachian area, there are many programs involving law students, but wide areas are being sadly neglected. We know this from letters that come to us from outlying communities requesting advice or counsel. Often it will be the local minister, teacher, or someone else interested in the problem who will act as an intermediary in asking legal services for another.

Giving legal advice second-hand to persons, i.e. through an intermediary has its problems but is nothing new in the practice of law. Certainly the problems can be overcome. We do give legal advice in every law office in the nation, by letter, based upon facts sent to us by persons on the scene. There is no reason why this sort of service cannot be extended significantly, particularly where there are community agencies that have personnel to gather facts and to forward a statement of such facts to the law school where the services of students and faculty members can be brought to bear on the problem. In many instances, the actual person involved could not write or give this information in a manner that would be significant to the lawyer in his decision making. There are, however, others in the community who can do this. Decisions based on the facts as given could and should be helpful in programming services that are to be performed for the individual in his local community. Law-school-sponsored training sessions could be held for those who are to gather the facts.

In addition to services by mail, the law schools can train law students through their legal clinics and, for a period of one or two semesters or quarters, send them into communities to work as externs with local lawyers or agencies, both lay and governmental. Administratively, this would pose problems, but, again administratively, these problems can be overcome.

Not only could these students, or externs, give significantly valuable legal services within the community where they would be working with court officials, members of the bar where so few lawyers are available, community development committees or non-profit corporations, but, more than anything else, perhaps, they might want to remain in the community to establish their own law practice there–resulting in a great contribution to community leadership–informed community leadership, dedicated leadership that is so badly needed in many areas of Appalachia.

State university law schools can be a center for an ever-enlarging, progressive program of legal services to the legally indigent, which will involve law students. Whether such programs are on a statewide or area basis, they can be significant, and they can involve law students to the benefit of the law student, the poor, and the program. Without the involvement of law students, they would, perhaps, not be justified by law schools as part of their teaching program.

Extension service based at the law school for lawyers within a community would be of great assistance in the legal program for the poor. This would be no small item of service where case preparation could be performed for lawyers who have limited time to perform such services within the community itself and where this number of lawyers available within the communities are limited. Students also can be of great help in this type of program. Briefing problems, preparation of cases on appeal, preparation of cases for trial where the technical work can be performed away from the scene, writing answers to problems through intermediaries, all of these are significant areas of law practice that can be law-school oriented and with law-student involvement.

In conclusion, law students can be involved in any type of program for the poor where such is law-school oriented and does not encroach too much on student time. In fairness to the student and the recipients of these services, student service-oriented programs must:

1. Allow for student to establish the lawyer-client relationship and to "practice" law in its fullest meaning;
2. Be administratively supervised by law school faculty members as well as other professional staff;
3. Involve educational and seminar programs to establish and develop professional concern for the poor and the administration of justice, legal reform, and professional responsibility in this area.

This can be done by:

1. Student involvement in clinic training;
2. Neighborhood law office practice;
3. Extern programs;
4. Involvement in law center programs;
5. Extension programs into rural areas, and in many other ways.

The use of law students is a proven practical means of supplementing and supplying needed lawyer decision-making in rural and urban areas in Appalachia. Programs for the poor can profit from student involvement. Such programs are limited only by the dedicated, imaginative, cooperative leadership provided by the law colleges of the area.

remarks of

JOSEPH F. PRELOZNIK*

Legal Services For The Poor

When Congress enacted the Economic Opportunity Act of 1964 authorizing establishment of the Office of Economic Opportunity (OEO), it declared, "The United States can achieve its full economic and social opportunity as a nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the working of our society."[1]

As a means for reaching the objectives declared by Congress, the Legal Services Program was made a part of OEO. At the time, E. Clinton Bamberger, Jr., the first director of the Legal Services Program, noted, "Lawyers are of singular importance in aiding this effort. Neither equal opportunity nor equal justice can be achieved for this nation's poor . . . unless they are represented by counselors and advocates."[2]

At its 1965 Midwinter Meeting, the American Bar Association indicated its support for the Legal Services Program by adopting a resolution that affirmed its cooperation with OEO. The resolution provided that cooperation should be given "in the development and implementation of programs for expanding availability of legal services to indigents . . . ." The resolution further stated that "such programs [were] to utilize to the maximum extent deemed feasible the experience and facilities of the organized bar . . . in accordance with ethical standards of the legal profession. . . ."[3]

To acquaint each state with the role of the Legal Services Program, the Department of Justice and the OEO called a National Conference on Law and Poverty. At this conference, attended by two representatives of the State Bar of Wisconsin,[4] Sargent Shriver, director of OEO, encouraged the conferees "not to follow the old ways, but to explore together new ways, adventuresome ways of bringing the benefits of the law of equality before the law and justice to the poor of the nation."[5]

When the delegates of the state bar returned to Wisconsin, they began formulating plans for a comprehensive program of legal assistance in Wisconsin. Although Wisconsin had no organized legal aid outside of Milwaukee and Madison, there was available a highly organized and capable bar dispersed throughout the state; consequently, the committee decided to make use of private attorneys instead of the traditional legal aid office concept. The proposed project was completely new and original to Wisconsin and was designed to preserve carefully the traditional lawyer-client relationship, which would also permit prompter services with practically no overhead. The proposal provided that private attorneys would be compensated on the basis of 80 per cent of their regular minimum fees and that the 20 per cent reduction would represent the legal profession's contribution to a deserving program. The program was named "Judicare" in the proposal to symbolize the program's dedication to the distribution and administration of justice through care for indigents in need of legal assistance.[6]

On June 1, 1966, the Judicare program came into existence, when the Office of Economic Opportunity approved the proposals submitted by the State Bar of Wisconsin. Due to limited resources for legal services, the original grant was limited to the northern-most twenty-six counties of Wisconsin. The program has been subsequently expanded to two additional counties and to all of the state correctional institutions.

Although this area contains many of the most sparsely-populated counties in the state and is generally conceded to be distressed economically, this has not always been true. After opening to settlement in the middle of the nineteenth century, economic opportunities, particularly in logging and mining, drew a heavy influx of immigrants to the area. Following the turn of the century, the population grew rapidly, reaching its peak around 1940.

With the decline of the lumber and mining industries, the area has become one of decreasing commercial activity in relation to the rest of the state. Although agriculture is now a predominant feature in the living pattern of the people in this area, the number of persons employed in farming has

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**Director, Wisconsin Judicare.*

[1] Bamberger, *First Annual Report on OEO Legal Services Program* 5.

[2] *Id.*

[3] 51 ABAJ 399.

[4] Representatives from the State Bar of Wisconsin were Donald C. O'Melia, president-elect, and Philip S. Habermann, executive director.

[5] National Conference, *supra,* note 4, at XVI.

[6] The program was named Judicare by Philip S. Habermann, executive director of the State Bar of Wisconsin. Mr. Habermann derived the name from the words judicature and Medicare. Similarities between our program and Medicare were noted: (1) free choice of attorney, and (2) preservation of the attorney-client relationship.

declined dramatically. Between 1940 and 1960, the total farm population dropped 55 per cent, with the sharpest decline in farm laborers.

Based on 1959 income figures, the median income for this rural area is approximately $3,000 per family. Thirty per cent of the families live on less than $3,000 annually, and 17 per cent of this group, or 21,462 families, live on less than $2,000 annually.

Rural Northern Wisconsin is an area of concentrated poverty but dispersed population. Its residents are a group whose needs are not met. Prior to Judicare, there was no organized legal assistance program in the area. Rural areas such as Northern Wisconsin have been generally neglected in the War on Poverty. This has probably occurred because the dispersement of the problem does not have the impact an urban ghetto does on the senses and because it makes the problem much more difficult to solve.

Judicare has attempted to satisfy this unfilled need by creating a comprehensive legal assistance plan for the entire state of Wisconsin, both urban and rural. By using the services of attorneys already established in private practice, Judicare can reach into every sparsely populated portion of the rural area, where the cost of setting up a special legal services office would be prohibitive and impractical. Since the use of private practitioners is not incompatible with neighborhood legal aid offices, the traditional legal services office could be retained in the urban area, but complemented with the use of the private bar to take care of peak loads and conflicts that arise during the ordinary course of providing legal representation for the poor. Through its central office, the staff attorneys of the Judicare Program coordinate the activities of the local bar associations and provide the private practitioner with research assistance if requested. The staff also devotes its time to community education, seminars for the attorneys, and reform in the law either through direct appeals or legislation.

It is a simple procedure for an individual to obtain legal assistance under Judicare. Applications for eligibility certification are made to the community action program representatives designated in each county, or to the county welfare director. Each person certified for the program receives a wallet-size card, with which he may obtain legal services in his county or an adjoining Judicare county in the traditional attorney-client pattern. There are over four hundred attorneys in the twenty-eight northern-most counties of Wisconsin available to provide legal services. Criminal cases, legal matters for which assistance is already available, and all matters capable of generating their own fees are excluded from the program.

After an initial conference with a client, the attorney is required to submit a notice of retainer to the Judicare office within seven days. The notice permits Judicare to check the client's eligibility and notify the attorney if the matter on which he is giving counsel is not covered by Judicare.[7] The attorney is paid $5 for the initial conference, even if no further action is taken.[8] When the attorney renders services beyond the initial conference, the $5 fee is deducted from his final payment. Under the program, provision is made for reimbursement for costs incidental to litigation.[9]

Once the attorney has completed work, he submits a request for final payment to the Judicare office. In his request, he outlines in detail the services rendered and the time spent on the case. During the first year of the program, the attorney was paid on the basis of $16 per hour or 80 per cent of the then existing minimum bar fee schedule, whichever was less. It soon became apparent that this arrangement had two serious defects:

1. The experienced and efficient attorney paid on an hourly basis received less compensation than the inexperienced attorney who required more time to complete a case.

2. The minimum bar fee schedule was not intended as a guide for maximum fees and consequently was silent in many areas covered by the program.

As a result, the Judicare board revised the payment method under the program. Attorneys' fees are now computed on the basis of $16 per hour for office time, $20 per hour for court time; or, in certain cases, a flat fee is paid.[10]

As originally requested by OEO, the Judicare board[11] retained the per-case and per-year maximums in the payment revision. Under the program, no one attorney may receive more than $300 per case, nor may he receive more than $5000 in any one year from the program. Exceptions to these requirements have always been possible, subject to prior approval from the Judicare office and upon a showing of good cause.[12]

Final bills are submitted on completion of work. The bills are processed and paid semimonthly. Any bills that do not comply with the established fee schedule are adjusted by the Judicare office. The attorney may appeal to the Judicare board if his request for payment is fully or partially denied.[13]

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[7] When a notice of retainer is received, a reserve fund equal to the estimated cost of the legal service to be provided is set aside.

[8] Surveys conducted in Judicare office reveal that many conferences are held for which the attorneys do not bill.

[9] "In addition to legal fees, Judicare will pay for necessary expenses incident to litigation. However, all costs other than filing fees and service fees must receive prior approval by the Judicare office." Schedule of Attorney's Fees and Costs in Judicare Matters, Part 1, Section D.

[10] Resolution VI, Judicare Board.

[11] The Judicare Board of thirty-four is made up of: attorneys who are presidents of the thirteen local bar associations in the Judicare area; four members of the State Bar Board of Governors; two members of the State Bar Legal Aid Committee; one representative of each of the CAP organizations in the Judicare area; seven representatives of groups and residents of the area served; and the Judicare director and counsel.

[12] If prior approval is received from the Judicare office or board, the $300 and $5000 limitation will be waived if enforcement would produce a hardship on the low-income persons.

The cost of administering the service portion of the program is approximately 5 per cent of the total budget. Legal assistance could be expanded to many more counties with little or no change in the administrative costs.

The program has a staff that consists of an attorney-director, an administrative assistant, two attorneys, a bookkeeper, and one and one-half secretaries, along with one or two part-time law students.[14] The office is located in Madison, Wisconsin, the state capitol. Madison provides quick access to the University of Wisconsin Law School and its library, the Supreme Court and its library, the legislature, and the offices of the State Bar of Wisconsin.

Three examples will demonstrate the way in which Judicare has adapted its Legal Services Program to meet the needs of individuals and groups in need of legal assistance. The first deals with the civil legal assistance now provided by Judicare to the state correctional institutions.

It is generally agreed by experts in penology that rehabilitation is the primary objective of our penal institutions, but the process of rehabilitation is retarded when an imprisoned individual is unable to manage and adjust his legal affairs. For most prisoners, the American legal system is a weapon that has been largely used to punish rather than to protect or help him. In an effort to increase his confidence in, and respect for, the law, members of the Judicare staff have been making regular visits to all of the seventeen state correctional institutions since December, 1966.

Requests for legal assistance are processed by institutional social workers using the normal Judicare eligibility criteria. The Judicare staff counsel interviews each inmate requesting services; if legal assistance is needed, the inmate may choose to have any attorney from his home county or from the county in which the legal problem will be resolved, represent him. Since the inmate is not at liberty to visit his attorney, the Judicare office contacts him for the inmate. If the attorney agrees to represent the inmate, he is provided with the information needed to represent his client under the program.

In addition to providing counsel, the program also arranges to give the inmate his day in court by paying for travel arrangements made with the Division of Corrections. Legal representation has been provided in a variety of matters, such as domestic relations, termination of parental rights, deportation proceedings, financial counseling, and bankruptcies.

Judicare also participates in the Pre-Release Program of the Division of Corrections. Each month, a staff attorney speaks to inmates scheduled to be paroled, to aid in preparing them for their return to the community. Most of the counseling by Judicare concerns itself with the daily financial problems faced by an individual, such as support payments, accumulated bills, and garnishments. In addition, the participating staff attorney describes the various legal assistance programs presently available to the inmate on his return to the community.

The Judicare program has also been involved in reforming the law as it relates to juveniles held in custody by the Wisconsin Department of Health and Social Services.

On May 15, 1967, the United States Supreme Court reversed a judgment of the Supreme Court of Arizona, which had dismissed a petition seeking the release of Gerald Gault, a fifteen-year-old boy who had been committed to the State Industrial School until twenty-one for making lewd phone calls.

After the *Gault* decision, there were a number of requests for legal assistance from juveniles who had been committed to Wisconsin institutions. An estimated 80 to 90 per cent of the 1,300 incarcerated youths had not had counsel at any time during the juvenile proceedings that resulted in their commitment to the custody of the department. Since the *Gault* case indicated that the state had an obligation to provide counsel to the juvenile, the program petitioned the courts for the appointment of counsel, instead of choosing individually to represent them, as it could have done by treating these proceedings as a civil matter. As a result of lengthy litigation, there has now been established an orderly procedure for providing counsel to already-incarcerated juveniles and of assuring them of the rights guaranteed by the *Gault* decision.

This accomplishment has been marred in one county in which juvenile girls are placed in detention. The court in that county has refused to appoint counsel because of concern over how the fees of the attorney will be paid. State laws specify that court-appointed counsel for inmates of prisons will be paid by the state, but the school where the girls are incarcerated is not defined as a prison. This question is being litigated by our program, and arguments were made to the Seventh Circuit Court of Appeals in June. A decision in this matter should be received in a few weeks.

Another area in which the program has attempted to adapt its services is in providing legal representation to the Wisconsin Indians as a group. The Indian first came into the state, probably from Canada, about 4000 years ago. There are some 14,000 Indians now in Wisconsin, most of whom reside in the northern part of the state, which is served by the Judicare program. The Indians are by and large impoverished; their average per capita income in 1966 was less than $750.

On August 27, 1966, shortly after the Judicare program began operations, the Great Lakes Inter-Tribal Council requested legal assistance in dealing with the State Department of Conservation. Because of an opinion of a former Wisconsin Attorney General, the Conservation

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[13] Since the board has been established, no office administrative decision has been appealed.

[14] An attorney-deputy director joined the Judicare staff on March 18, 1968. He is primarily responsible for supervising appellate and research matters.

Department had begun regulating hunting, fishing, and trapping on the reservations. Although a subsequent Attorney General disagreed with the earlier opinion, the Conservation Department continued to enforce their regulations on the Indian reservation.

The Judicare Program has filed a Declaratory Judgment in the Federal District Court for the Western District of Wisconsin asking the court to define the treaty rights of the Indians and to restrain the Conservation Department from enforcing the state regulations in violation of these treaties.

The Judicare Program has also worked with the Attorney General's Office and with the Conservation Department to create legislation regulating the harvesting of wild rice. Many of the Indians living on the reservations where wild rice grows rely on the sale of this crop to provide them with a substantial portion of their annual income. The present statutes permit the Conservation Department to license anyone to harvest wild rice on these reservations. This practice has caused harm to the crop by permitting inexperienced whites to harvest the wild rice. The legislation introduced, drafted, and supported by the Judicare Program would give the right to harvest wild rice on reservations exclusively to the Indian. It would also authorize the Conservation Department to set up management study groups to explore better ways of growing, harvesting, and marketing the product.

The staff attorneys in the program have also worked closely with the Great Lakes Inter-Tribal Council to establish a co-op for processing, packaging, and marketing the wild rice. There have also been some preliminary discussion on the possible use of a credit union to provide the individual Indian with a loan to assist him during the interval necessary to process and market the wild rice. Since unprocessed rice sells for much less than the finished product, this assistance could mean a substantial economic gain for the Indians. There are also many other areas in which the Judicare Program has provided special services to the Indian as a group. For example:

Indians in a public housing unit were refused protection by a nearby fire department.

A staff attorney met with the county bar association and local judges to discuss the problem of closing probate procedures involving estates of Menominee Indians. Stocks and bonds held by the members of this terminated tribe had a book value but no real market value. The staff attorney's suggestion that the estates were insolvent and qualified for a summary probate procedure was accepted by the court.

The Great Lakes Inter-Tribal Council asked for and received staff assistance in determining ownership of Indian lands in the Lac du Flambeau Reservation.

Judicare obtained legal counsel for Winnebago Indians outside the program area who were being threatened with eviction for withholding rent in a public housing project. Rent was withheld in an attempt to get a voice in the management of the project.

There are many other illustrations of the types of special services the Judicare Program has provided during its brief history. Although the scope of the problem may vary considerably from case to case, there is one common goal for all of the work undertaken by the program. This is the goal that was cited earlier when Congress declared, "The United States can achieve its full economic and social opportunity as a Nation only if every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the working of our society."

Effectively to carry out this Congressional mandate, broad reforms are necessary, and large sums of money must be made available to effect them. As anyone who has worked as an attorney knows, reform and finance must be implemented by the day-to-day activities of the individual attorney helping the individual client.

Although the Judicare Program has no control over the appropriations Congress makes, the program has applied itself vigorously toward reform. Of equal importance is the less-publicized portion of the program that deals with the day-to-day activity of the individual private attorney representing his client. Representing the mother seeking welfare or the deserted mother seeking a divorce; representing a client in illegitimacy proceedings; handling support, adoption, and garnishment or bankruptcy cases—unpopular and unglamorous as this portion of the work may sometimes be, it is a necessary and vital part of the total legal assistance program.

Judicare recognizes this as it seeks to fulfill all of the legal needs of its clients, and it does so without creating special clinics for the poor, without interfering with the client's ability to select his own attorney, and without setting up costly offices all over the state to make the attorney accessible. By working within the existing framework of the legal profession and by preserving the traditional attorney-client relationship, the program has been able to give its clients, however impoverished, the individualized, personal courtesy and concern, which is necessary to maintain the self-respect that leads to self-dependence.

remarks by

GEORGE C. EBLEN*

Rural Area Legal Services Program

In June, 1966, shortly after my retirement from the Army, I was requested by the executive director of the Elk and Duck Rivers Community Association (the Community Action Agency administering OEO programs in the area) to prepare a work program for a legal services project for the ten-county area in South Central Tennessee served by that CAA. Armed with this request, the title of "legal developer," a copy of an OEO publication entitled "How to Apply for a Legal Services Program," and some experience in the field of "legal assistance" in the Army, I proceeded with my mission.

After a rather extensive survey of the area, I found it to be a rural community of some 224,699 people. There are only three towns of over 10,000 people: Shelbyville (12,500), Tullahoma (15,000), and Columbia (20,000). There are five towns of 4,000–10,000 people and twenty of under 3,000. The area is comprised of some 4,783 square miles. The per-capita income averages $1,450 per year with 47.5 per cent of the families earning less than $3,000 per year, varying from a low of 62.2 per cent in Coffee County. Nineteen per cent of the rural families earn less than $1,000. The population is approximately 60 per cent rural. The low average income has undoubtedly contributed materially to an outmigration of some 40,000 persons since 1950. In addition to its other duties, legal services is attempting to help stem this tide, as will be shown later.

It became obvious that, if no other problems arose, that of logistics alone would be considerable.

The next step involved meeting with all the organized bars in the area, as well as with as many practicing attorneys and jurists as possible. Reaction from private attorneys ranged from complete disinterest to outright hostility; however, most of those interviewed expressed their awareness of the need of such a program as they readily admitted their inability to serve more than a fraction of the indigent cases that came to their attention. Faced with the problem of making a livelihood and meeting office overhead, most attorneys just couldn't spend their time on "non-fee generating" cases. They did, however, informally express concern over referral of cases from and to the program. This problem was solved to the satisfaction of most, as I will indicate further in these remarks.

The primary concern of most jurists was that such a program would generate excessive litigation—a fear, I am pleased to report, that did not materialize. After completion of the work program, approval by the local bar associations, and funding by OEO, the program became fully staffed and operative in September, 1967. Originally, personnel consisted of three staff attorneys, three investigators, and four secretaries, in addition to the program director. Budgetary restrictions have now cut that number to the director, two staff attorneys, three secretaries, and two investigators. This cut has resulted in closing our office in Lewisburg, Tennessee, leaving offices in Shelbyville, Tullahoma, and Columbia. Obviously, this small force cannot hope to serve the area adequately, but the effort is made nevertheless. We have initiated talks with Vanderbilt and the University of Tennessee College of Law with the view of obtaining third-year law students on an intern basis to be placed in towns now having a legal services office, but, for various reasons, this program has not materialized.

Our governing board is composed of one representative from each of the organized bars in the area (8), and six (6) members representing the target group. Although representative and sympathetic to our aims, it is almost impossible to meet with a quorum at any set time and place due to distance and other commitments; consequently, we have devised a system whereby individual members of the board are visted periodically by the staff and briefed on our activities. They are also given copies of our quarterly report, and, in the event a decision is necessary on a certain problem, they are contacted individually for their opinion and approval when needed.

As I mentioned previously, the question of referral was a most delicate one. In order to prevent undue criticism based upon possible favoritism towards one lawyer, we give to each client with a possible fee-generating case a list of all the practicing attorneys in the town and request that they contact a lawyer of their choice. In the event that lawyer does not wish to take the case, he prepares a referral slip to us requesting that we take the case. We have found that this practice works very well, as is evidenced by the fact that no complaints have been received to date. In addition, in order to preserve the attorney-client relationship between attorneys in private practice and clients who may be referred to the legal services attorney by them, a reciprocal referral system is being employed. Under this system, the legal services attorneys refer clients who may have fee-generating cases back to the same attorneys that origainally referred the client to legal services in a non-fee-generating case. This

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**Director, Elk & Duck Rivers Legal Services Association.*

procedure is obviously successful, as we now get a *majority* of our cases from other attorneys.

Our latest report, for April-June, indicates a work load as follows:

Consumer and Employment Problems	*27*
A. Sales Contracts	10
B. Garnishment and Attachment	5
C. Wage Claims	3
D. Bankruptcy	4
E. Other	5
Administrative Problems	*49*
A. State and Local Welfare	12
B. Social Security	16
C. Workmen's Compensation	3
D. Veterans Administration	5
E. Unemployment Insurance	4
F. Other	11
Housing Problems	*18*
A. Private Landlord and Tanant	6
B. Housing Code Violations	None this quarter
C. Public Housing	7
D. Other	5
Family Problems	*144*
A. Divorce and Annulment	62
B. Separation	5
C. Nonsupport	53
D. Custody and Guardianship	15
E. Paternity	1
F. Adoption	3
G. Other	5
Miscellaneous Problems	*47*
A. Torts	6
B. Juvenile	3
C. School Cases	None this quarter
D. Misdemeanors	7
E. Other Criminal	10
F. Commitment Procedures	7
G. Other	14

One category of cases justifies specific attention—domestic relations. Although it is the unanimous opinion of the entire staff that such a situation is unfortunate, the means to rectify its existence is not nearly so clear. When we consider that family life in a poverty-ridden family ranges from very bad to unbearable, we readily see that the parents of such families seek divorce as a means of escape. From the legal services point of view, however, this condition can give us the opportunity to help the family in personal development, either through financial assistance from various state or federal agencies or through guidance counseling available in their area. We are attempting to relieve the financial and other pressures that result in these rather hopeless and heart-rending cases. Further, we are considering limiting our divorce practice to those persons who are not chronic repeaters and who demonstrate a sincere desire to improve their lot. We hope eventually, to establish counseling services throughout the area in order that we may be guided in such cases by other than the statements of a distraught client.

Prior to the preparation of this talk, I asked our two able staff attorneys to give me their independent views on the program, along with their recommendations. Mr. Thomas Hembree, in the Tullahoma office, in addition to his concern over the possibility of our becoming a "divorce mill," feels that one of our greatest accomplishments has been our comparatively successful attempt to become a part of the legal system of the rural area that we serve. He states that by working very closely with the local bar association, private attorneys, and court officials, we have slowly developed a respect for and an understanding of the program and its value and have thereby created a friendly, cooperative atmosphere in which to provide the greatly-needed service. He feels the greatest mistake any new rural legal service program can make is to be too aggressive in its initial stages and antagonize the existing system (which would not necessarily be true of a metropolitan program). Any lasting, effective changes or reforms that any legal service program can make must be of and within the existing system. In a rural area, the system is much more ingrained and slower to act and react; however, our efforts have reached the point where the program should become more aggressive or may face stagnation and lose its potential in helping to alleviate some of the problems that oppress the poor. In trying to make changes and reforms, we must not lose sight of the primary objective of any legal service program—providing individual legal representation for those who cannot financially afford them. Many programs, especially metropolitan ones, appear to have placed the individual client second to social and legal reforms. This could be a dangerous mistake. If in representing individuals we can bring about reforms, this would be fine, but we should not spend all our time thinking up law reform projects.

We feel that our constant contact with private attorneys, court officials, and social agencies has resulted in a greater number of referrals and a more effective service to the client than by the use of various and sundry publicity gimmicks employed elsewhere. We all support community education as to the role of the legal profession as a whole (including our services).

As concerns the future of legal services, Mr. Hembree suggests that these programs work in conjunction with some multi-social service agency that can realistically attack the social problems of the poor, such as education, employment, family planning, etc. We have developed something similar to this through our investigators. This was, of course, by chance, not by design; however, to be effective with such a working relationship, the social service must have trained personnel. The legal service program must concern itself with legal problems only. Without a social agency to help solve some of the social problems, our clients will be constant repeaters, forever in need of our services, as evidenced by the growing number of returning clients after only two years of operation. This indicates that we are helping solve immediate problems but not reaching the deeper-rooted problems that plague the poor.

Mr. Bill Staley of the Columbia office states that a relatively small volume of consumer employment problems are handled in his office, primarily because those brought to our attention are fee-generating in nature or because the person involved does not fall within our guide lines. Also, few administrative cases (social security, welfare, veterans administration, etc.) are handled due to a good working relationship with the local administrative offices and an awareness on the part of their workers of the legal aspects of the problems involved. A good example of the general attitude of these administrative agencies in Middle Tennessee is the recent directive from the state welfare office. It instructed the county agencies to disregard the residency requirement in processing welfare applications. This was done without any apparent known legal action following the recent Supreme Court decision. We are fortunate in our ten-county area to have public housing administrators who are willing to concern themselves with the problems of their tenants and are more than fair in dealing with delinquent renters. This, again, is the result of a good working relationship with those agencies. As a further result, few housing problems are encountered.

I concur wholeheartedly in the remarks of these gentlemen and would add a few observations of my own.

First and foremost, I do not feel that legal services in either rural or urban areas should limit themselves to a mere case-load practice but should assert considerable effort towards correcting the causes that breed the problems we try to solve. As the term "economic opportunity" connotes, we should, whenever possible, assist economically-depressed persons to establish themselves financially in our free enterprise system not only by obtaining gainful employment but by trying to do a little more in assuming the responsibility of management. There is nothing more traumatic for a person addicted to taking orders and doing as he is told than to find himself suddenly thrust into a position where he must make the decisions, but such is the price of economic independence. Our problem is to guide wherever possible and assist such persons in attaining the fruit of personal profit—no greater motivation has been devised.

In this endeavor, we have loaned our assistance wherever possible to persons wishing to establish businesses of their own, and, in certain instances, we have attained a degree of success. In a recent directive, OEO has recommended such action, and I thoroughly endorse this policy. Earlier, the National League of Cities recommended such action at its December, 1969, meeting at New Orleans.

I would like to mention, before closing, that I feel legal services should be permitted to become more involved in criminal cases, particularly misdemeanors, in areas where there are no public defenders. *Rehabilitation* starts with the first petty offense. Our chances of gaining a responsible citizen after the commision of a felony are very limited.

I also feel that a real effort should be made to establish a program, much as has been done in the public defender field, in the general nature of an Americanized ombudsman.

In closing, let me state that legal services have a place in our society and a real opportunity to contribute to the reduction of the conditions that cause so much suffering on the part of an all-too-large a portion of our population. In order to meet that challenge, our efforts must be affirmative, constructive, and deliberate in nature. Such an effort will inevitably result in the increased well-being of our community.

discussion*

Q: What about participation of the poor in the various programs?

CADY: The poor should consider the program theirs, and the majority of the board of directors should be representatives of the poor.

ALLISON: There is a problem as to just what services lay people can render. NLADA is now experimenting with this problem and in the past two years has held special institutes for lay board members of legal services programs. In time and after more experience, we hope to have a definite answer to this problem.

Q: How many attorneys actually participate in the Wisconsin Judicare Program?

PRELOZNIK: There are 500,000 people in the northern 28 counties served by our program. Of these, about one-third are poor. To serve their legal needs, 340 attorneys participate in our program.

Q: How do clients find out about your program?

PRELOZNIK: Mainly through press, radio, and television publicity, which has been very generous to our program. We also carry on a Judicare Alert Program in which a week's training is provided for representatives from each of the 28 counties covered by the program. The representatives then go back to their communities, where they go door to door with brochures and explanations as to the kinds of problems in which lawyers may be of help. Members of our board of directors and staff also get the work out to client groups or those, such as social workers, who come in contact with potential legal aid clients.

Q: How many clients does your program handle?

PRELOZNIK: We've handled 10,000 since the beginning of our program. This does not include our activities toward new legislation or group representation.

Q: How difficult is it to get funding? Also, what happens when funds get cut off?

PRELOZNIK: We had a very difficult time to get original funding, because the OEO had serious doubts about judicare. Now that our program has proved itself, refunding is almost automatic–although the level of refunding is always a question.

Q: Who determines indigence?

PRELOZNIK: The local CAP representative or the county welfare director's office (most likely, it'll be a social worker) will process applications. Where there are serious doubts as to eligibility, the application will be forwarded to our central office, where the matter is finally settled.

**In each case, neither question nor answer are verbatim. They represent the paraphrasing of editor from notes taken at the conference.*

remarks of

JOHN B. WATERS, JR.*

The Appalachian Regional Commission was created in 1965. Our aim is the provision of services on a regional basis, and we have set two goals for Appalachia:

1. To promote the people by providing them the skills necessary for full participation in society.
2. To develop the economy that will provide jobs and raise standards of living.

Providing services for a dispersed and isolated rural population is quite different from providing those same services in congested urban areas. Although 10 per cent of the nation's people live in Appalachia, the area commands only 7 per cent of the available federal benefits. Since the area is 50 per cent rural, a new service delivery system, based on common building blocks, must be created.

As a start, the Appalachian Regional Commission divided the area into sixty-nine planning and development districts. Then they set about determining logical centers for these districts–mostly the larger concentrations of population–from which major services would be dispersed. Eighty such centers have now been selected.

Our first task is to strengthen the ties between these centers and their surrounding rural population. The immediate problem is to enable these people to move easily back and forth from rural to urban areas. The terrain is rugged; many streams cut through it; east-west transportation is extremely difficult. Improvement will require improvement in communication and transportation, hence a great expansion of the area's highway system. Roads are the real building blocks for development in Appalachia.

Our plan is to build up, in each district center, professional cadres for specialized services, such as in education, health services, and improved utilization of rural resources.

Take, for example, health services, a primary concern. The problem is one of attracting medical personnel to the area and delivery of health services to the isolated rural population. Lack of cultural attractions and the amenities of civilization has thus far kept away all but the most dedicated health professionals. These blocks to adequate health services must be removed.

Thus far, eight areas are experimenting with developing a full range of health services. For example, major general hospitals, with teams of specialists in various health fields, are being located in the key population centers. Around these centers, there are networks of less pretentious, smaller health facilities, with more generalized services. In the farthest reaches of the districts, the outlying rural areas, there are diagnostic and preventive programs which will refer patients to the more highly-specialized medical services whenever necessary.

The same kind of approach is being tried with education, with five major centers as training locations, each having satellite centers. The advance training centers, with living-in facilities, will eventually build toward a network of community colleges.

One of Appalachia's major problems is out-migration. People leave the area to go where the jobs are–to industrial centers such as Detroit. Although this depletes the area of its human resources, the commission finds that Appalachia draws its people back whenever they face problems on "foreign soil"–problems such as domestic relations, labor, or finances. The migrant then comes home to Appalachia where few services are available.

In rural Appalachia, there are just half as many lawyers as in the urban areas. Thus, there is a great need for legal services of all kinds, not just to indigent individuals. Middle-class people, business, and industry, as well as the governmental units of towns and villages are without adequate legal services. Because of this lack of counsel, many local communities are losing out on services and financial support that might otherwise be available.

When a project is poorly planned, for lack of proper advice, it presents more problems than it's worth. Because lawyers can see more broadly, they should participate in the planning process. Although Appalachian lawyers do donate a great amount of their skills to the indigent, this often takes the shape of filling out "Washington forms." The rural lawyer finds that too often he cannot charge a client for filling these out and sometimes gets caught on paying the postage to return the form to its proper source. The Appalachian Regional Commission is still creating staff to furnish the full range of services necessary. They would then be available to municipalities and counties to provide technical assistance. Among them should also be legal services. This kind of pooling of expertise, to be called upon when needed by community groups, can be used for attorneys as well as medical practitioners.

**Co-Chairman, Appalachian Regional Commission. Mr. Waters did not have a prepared text. These remarks, then, are paraphrased from notes taken by the editor at the conference.*

remarks of

GRANVILLE E. COLLINS*

Public Defender in Outstate Missouri

In the state of Missouri, no provision has been made for the representation of indigents other than by unpaid, unreimbursed, assigned counsel. This representation is allowed at the preliminary level in homocide cases and at the circuit-court level in all other cases. In 1964, the National Defender Project made a three-year grant of $65,212.00 for Boone and Callaway counties to finance an experimental public defender-legal education program.

The program, as envisioned, would serve three functions.

First, it would provide representation in eight specific areas: (1) criminal cases, both felonies and misdemeanors; (2) municipal ordinance cases; (3) criminal sexual psychopathic cases; (4) incompetency proceedings; (5) habeas corpus and post-conviction proceedings; (6) guardian ad litem for the poor; (7) juvenile court; and (8) appeals.

Second, it would serve as a demonstration of how defender services would function in a rural area comprised of more than one county.

Third, it would aid in the training of students in the field of law, social work, and medicine.

The geographic area covered was Missouri's Thirteenth Judicial Circuit, which consists of Boone and Callaway counties and is located approximately in the center of the state.

Boone County had a 1960 population of 55,202, including 3,473 Negroes, with an assessed valuation of $135,500,000.00. Callaway County had a 1960 population of 23,858, including 2,036 Negroes, and an assessed valuation of $36,000,000.00. This region is a typical border area between the North and the South. Known as "Little Dixie," it constituted one of the principal slave-holding regions in the state of Missouri until the Civil War period. The nature of the rural area varies widely from rolling, prosperous farm lands of the north, to the wooded hills of the south, which afford only a marginal existence to the inhabitants. Taken separately or together, Boone and Callaway counties are representative of a large number of rural and semi-rural counties across the country. There are eighty-eight counties of the United States comparable in population to Boone County, and there are 435 counties in the United States comparable in population to Callaway County. One in every six of the 31,000 counties of the United States is similar in size to Boone or Callaway County, similar in economy, and similar in having the same problems of legal representation.

Our public defender project has been extended from the original three-year program. We are now operating in our fifth year. The staff consists of one attorney and one-full time secretary who travel the circuit. In addition, each semester we use six law students and two students from the School of Social Work in the office as investigators and as assistants.

Statistically, the project's costs for five years of operation will be $126,937.72. We are appointed in 83 per cent of all felony cases and have been involved in some 1,219 criminal matters and over 425 civil matters as of May 1, 1969.

The area of student participation and training has been most gratifying.

The School of Social Work has provided our program with students as well as a field instructor. The students provided the social history and background that has been the foundation for many of the probations and paroles that have been given by the circuit court. We have been able to furnish the court with an additional report, other than the presentence report, submitted by the parole office. In all cases where a study has been made, the student has followed up with the probationer. The result has been a very satisfying arrangement between the office of the public defender and the parole office.

We have not been able directly to involve the medical students in the program, other than those who are specializing in psychiatry and in psychology. We have been able to use these students in connection with mental examinations as well as working with chronic alcoholics. The Mid-Missouri Mental Health Center has accepted, upon our recommendation, many chronic alcoholics who, without their help, would have, in many instances, been incarcerated either in the county jail or the Department of Corrections.

Each semester, six law students are selected to assist the circuit defender. The selection is based upon a number of factors, including grade-point average, class standing, class in law school, interest in criminal law, intention to practice in the area of criminal law, and personality. Grade-point averages are important; however, they are not the sole determinant. After being notified of their selection, arrangements are made with the public defender to meet with the students who are then assigned directly to the office where they are divided into pairs and assigned days to report to the office.

In general, when any case comes to the defender's office,

**Public Defender of Boone and Callaway Counties, Missouri.*

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two students are assigned to the case. These two students immediately interview the client and examine whatever is available in the court file. The students then return, report, and receive further instructions. They next conduct such investigation and research as is called for. This includes interviewing all available witnesses who may have had any connection whatsoever with this case. A summary of the case is then prepared and given to the defender who criticizes the summary and discusses the case with the students. The students are then assigned whatever additional work is required for the case. The same two students handle the case from beginning to end, unless the end of the semester comes before the end of the case. The amount and type of work varies, of course, from case to case.

The student may also be called upon to prepare memoranda on points of law to be used in the defender's office. The students are also assigned weeks in which they are on call since the public defender does not live in Columbia and it was felt that someone from the office should be made available for night-time duty if necessary.

In addition to the work in the defender's office, each student is required to submit a piece of written work. Although some of the papers are what may be termed traditional research papers, others are more closely related to the matters on which the student has been working at the office.

For the work at the project, students receive law school credits. Since the beginning of the program, the student interest and enthusiasm for working in this program has been very high. Beginning in the winter semester, 1965-66, the program was expanded to include students working also in the office of the prosecuting attorney, and four students were able to work in his office on a similar basis as those in the defender's office.

We felt, from the beginning, that community involvement was a necessary and integral part of any program operating in a semi-rural area. We felt it necessary to involve the public simply because of the common feeling that those who are charged with crime and those who are incarcerated are not human beings within the matrix of our society and therefore anyone working with them or for them must be cast out.

Upon the opening of the office in December, 1964, we became aware of an acute problem with many of our clients. We found that, in cases where the court had granted probation, the same people were violating probation and becoming involved in other crimes. For the most part, these were of a petty nature, yet sufficient to revoke their probation and result in imprisonment. We began to seek some avenue of help. Contacts were made with ministers, professionals, and lay people, and the problem was explained to them in some detail. The defender office could prevail upon the court to give a man a second chance, but it had no way of providing any system to help those who needed it.

The group originally contacted met informally in early 1965 and volunteered to do what they could. This small beginning resulted in the incorporation of a non-profit organization in 1966, taking as their official title, "STEP" Association, Inc. The name stands for service, training, education, and providing.

The organization is still functioning and has given aid to over 100 individuals, including those who are released from the Department of Corrections, as well as those who are granted probation or bench parole. The purpose behind this group was to help those who have been out of the mainstream of life to return to society as acceptable, useful citizens.

Of all the people they have been working with, only two have become involved in other crimes and have had their probation or their parole revoked.

In 1966, this group went to the Daniel Boone Regional Lending Library and suggested to them that the services of their mobile lending library be made available to those who were locked up in the county and city jails. The problem having been presented to the board of directors, a favorable vote was cast to try the program on a trial basis for six months. Started in June, 1967, the program is still in operation. Each week, a member of the library staff makes the rounds of the jails. The library has found this lending program to be very fruitful. The figures of the total number of books checked out show that since the beginning of the program, over 17,000 books have been checked out to inmates of the county jail; out of this number, only fifty paperback books and two hardback books have been damaged.

Mrs. Jane Weitkemper who is the "old bag with the bag" who visits the jail states, "I feel that there is even a greater need today for library services to prisoners, and I would like to relate some of my experiences in working with those incarcerated in the Boone County Jail. Some time ago, a young man in the jail who had asked for no material for several weeks asked for some picture books or comics. One of the other prisoners laughed and said to me, 'I wouldn't waste my time on him. He is a dumb bunny, he can't read.' It made me so darned mad that I lashed right back. 'Well, why don't you do something constructive for a change? Teach him to read.' He looked at me as if he had been struck. He said, 'I can't do that.' I simply replied, 'You could try.' The following week both men asked questions. 'How could the one teach the other to read?' I borrowed an old reader and some letter cards. With these and some children's books from our library, the 'teacher' began to instruct the 'pupil.' At the end of four months, the young man could read well enough to read the news. What good did it do? He is just a jail bird. Who cares if he can read? Well, I don't know, but I can hope that maybe his whole life is changed. I do know that the one who did the teaching told me, 'It's the first constructive thing I have done in my life.'

"These past two years have been a rewarding experience. Each weekly visit brings me into contact with new inmates, exposes me to new situations and experiences. Only one thing is unchanging. Each time, as I leave, the men never fail to ask, 'Will you be back next week?' How long will it take for them to really believe that I will?"

The Office of the Circuit Defender for the Thirteenth Judicial Circuit is now on the last leg of its five years of operation. Reception and support by the public of the program has been strong in Boone County. Callaway County has provided much moral support but very little financial support. The attitude of those controlling the purse there is that they will not provide any assistance to criminals unless ordered to do so by law.

It is felt that the program has met all three of its objectives. Foremost is to provide defender services in an area where badly needed. Services have been rendered in all areas of the law where called upon. The office has not only taken care of those matters within the circuit but has been called upon by the courts of other jurisdictions to render aid, where, because of the local situation, the local bar could not function. An example is the request to represent a man on a charge of first-degree murder in Adair County because each member of the local bar was disqualified because of a conflict of interests.

Time after time, the defender office has gone beyond the role of advocate by giving aid not only to clients but also to families of the clients. We see the part of the role of the office as helping to keep the family unit together and getting the accused back into society as a working, productive individual, thus lowering the cost to the local and state governments.

The official reports of the Office of the Sheriff of Boone County shows that even though commitments have increased by 5090, the average time spent in jail per booking was reduced from forty-five days in 1965 to twenty-nine days in 1968.

The experience of the project in the Thirteenth Judicial Circuit has been used as the basis for the Legislature of the state of Missouri to introduce legislation for the establishment of a public defender office for the entire state of Missouri. This legislation is presently pending.

In the training of students, the experience of the defender of this project indicates that those students who have been directly connected with the office have become better students or lawyers or both because of their experiences. Several of these students have gone directly into the fields of law enforcement; it is hoped that they will become a guiding hand in the field of criminal law in the future.

Perhaps the best evaluation of a defender program should be made not by the judges nor the integrated bar but by the spokesman for the law enforcement agency, the state's attorney. The following observations are taken from an article entitled, "The Circuit Defender in Outstate Missouri" by the Honorable Frank Conley, Prosecuting Attorney of Boone County.

> In the operation of the Circuit Defender Program of the 13th Judicial Circuit, several factors have become apparent.
>
> First, as a result of the Circuit Defender Program, more appointments of counsel have occurred at the preliminary stage of criminal proceedings which can be important in the later trial of the case.
>
> Second, the Circuit Defender's Office working in conjunction with the University School of Medicine and with the School of Social Work has created a program whereby individuals from these respective schools work closely with the individuals who have been placed on probation or parole by the trial judge. This service . . . complements . . . the work of the State Probation or Parole Officer who is officially assigned to the cases. . . .
>
> Third, as a result of police agencies being aware . . . that in most instances all defendants charged will be represented by counsel, the quality of investigations made by law enforcement agencies have increased materially. No longer is a cursory investigation made with the police officers assuming that the defendant will plead guilty, but rather the effectiveness of the investigation has risen substantially . . . .
>
> Fourth, the Program has proved invaluable for the actual on the job training of the senior law students in both the Defender's Office and the Prosecuting Attorney's Office. . . . They have gained valuable experience in the investigation, preparation, and briefing of criminal cases, and in several instances have sat through the actual trial of the case and watched the work they have performed under the supervision of the Defender unfold before a trial jury. . . . This has given the student a clear and thorough understanding of the basic criminal procedures and practices.
>
> From the standpoint of the Prosecutor's Office it would appear that each and every defendant who is desirous of legal representation is guaranteed that right and furthermore, that he will be represented by able and competent counsel.
>
> The Program has resulted in both law enforcement officers and prosecuting officials becoming more proficient and careful in the preparation and presentation of cases. A defendant is no longer faced with the possibility of being defended by an attorney with little or no criminal experience but is now assured that in the event he desires a jury trial, he will be represented most ably and conscientiously, and all of the rights afforded to him by the Constitution will be employed to the fullest extent.
>
> Criminal cases can now be disposed of after discussion between the Prosecuting Attorney and Counsel for the Defendant rather than as the former practice by the Prosecuting Attorney discussing and disposing of many cases with the defendant directly. This results in a truly adversary proceeding by both sides discussing the case fully and making a disposition based more fully on the facts of law involved.
>
> The Program has resulted in an increased number of cases being disposed of by plea or trial, and a gradual reduction in the number of cases which are carried over from term to term.
>
> The pilot program in the 13th Judicial Circuit will prove invaluable in presenting information, facts and statistics which will assist in arriving at what is the best way for Missouri to assure that, which is perhaps best expressed in the concuring opinion of Mr. Justice Clark in *Gideon v. Wainwright:* "That the Sixth Amendment requires appointment of counsel in all criminal prosecutions is clear, both from the language of the Amendment and from this Court's interpretation."

remarks of

RALPH R. WIDNER*

Legal Services and the Appalachian Regional Development Program

Earlier today, John Waters, the federal co-chairman of the Appalachian Regional Commission, described the kind of approach we are trying to take under the Appalachian Regional Development Program to help bring to the people of Appalachia the quality of services and life to which they are entitled. In a nutshell, he described attempts to develop a new system for the delivery of services in rural areas.

There is still another aspect to the legal services question that he did not touch upon–the institutional one. So, rather than elaborate upon what John has said, I will concentrate on that side of the problem, since this is more peculiarly the province of the Appalachian Regional Commission than is the main concern of this conference–the provision of legal services to individuals.

Obviously, every individual must have access to the best advocacy when, for any reason, he must defend or assert his rights.

The best advocacy in the world is of little avail in a system that is poorly designed to deal with those rights even-handedly, with regard for the income, color, creed, or other particularities of a given individual.

Yes, we have an advocacy problem; a problem of providing legal services to people who live in rural America, but we also have institutional problems in Appalachia. These would forestall the best of our efforts to provide individuals with adequate legal representation when they need it. In addition, these inequities must be corrected not through the courts but through other means.

There is a profound dissatisfaction throughout this country, particularly among the young, over the many imperfections and injustices that still afflict our social, political, and legal system. It is quieter in Appalachia, but it is here, too. There is a growing determination, in the generation coming up to bat, to do something about those imperfections. As long as these demands do not yield to the self-destructive temptations of compulsive protest for its own sake, they are the best evidence at hand that we are still, at heart, a healthy society. A society with eyes open wide to its faults still has the capacity to grow better.

In general, there are two requirements for constructive social evolution.

First, the people themselves must want and be willing to support constructive change toward a more responsive polity.

On the other side of the equation, there must be willingness and ability on the part of the established institutions of society to respond to such demands; to become more responsive to the changing needs of a changing society.

If there is demand on the part of the electorate for change and a refusal on the part of institutions to respond to that demand, one of two things results: government by force or revolution.

On the other hand, if political institutions attempt to impose change but lack the necessary support of the electorate, the efforts are likely to end in frustration and reaction.

In many parts of Appalachia, we are beginning to see the early signs of healthy and constructive adaptation to the changed circumstances of today's Appalachian society, but a number of frustrating barriers stand in the way of making good on this potential.

It is these barriers to institutional change that must be the particular concern of a program for regional development.

The unique federal-state local alliance in Appalachia, represented by Appalachian Regional Commission, has as its primary mission the development within the institutions of the region of a capability to improve their effectiveness and respond to new conditions.

Accomplishing institutional change of this kind is a highly subtle and complex process. It calls for a minimum of posturing and a great deal of quiet work. It calls for the services of a good many skilled people, but it particularly calls for the talents of lawyers–lawyers who are willing to spend long hours, many of them thankless, with school districts, part-time mayors, county commissioners, and state legislators.

In cases too numerous to count in the rural sections of Appalachia, our elected officials are forced to act without adequate legal or other technical advice, and many communities teeter on the edge of one legal disaster after another.

This is a region of small jurisdictions. We have only half as many people living in jurisdictions with over 10,000 population as the nation; only a little over a third of Appalachia's people live in jurisdictions of this size–jurisdictions big enough to provide the quality of services people need, jurisdictions big enough to have competent legal and technical advice.

A large percentage of our jurisdictions, therefore, are just as much in need of legal services as our poor families. In fact,

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**Executive Director, Appalachian Regional Commission.*

it is no exaggeration to say that the need for legal services cannot be expressed solely in terms of economics in Appalachia. There is a need for legal services across the board.

John Waters has already described one possible solution we are trying to implement in Appalachia—the "pooling" of several counties into a development and planning district. Such a district will ideally be able, through the shared resources of all the jurisdictions in an area supplemented by state and federal funds, to provide a full range of technical services to the jurisdictions in that area.

Let us take one example of the way in which the present structure of jurisdictions in Appalachia affects both the rights and the future of our young people, for example. I mean, of course, the region's educational system.

Why should an American child born in eastern Kentucky or Mississippi be any less entitled to a fair chance in life than one born in Scarsdale or Oak Park? Education—quality education—is the key to equal opportunity, and no child should be penalized in competing for that opportunity by being born in one part of the nation rather than another. Obviously, his rights have been infringed by the accident of birth, but this is a question that cannot be settled in the courts alone. It is an institutional problem—the kind of problem that a regional development effort must attempt to solve.

The obvious first step was for the Congress to recognize that it is in the national interest to provide every child with the best education possible. If local jurisdictions were financially incapable of providing comparable educational opportunity all across the country, then clearly national resources should be made available to help them.

As a nation, we have taken that step. While the kind and amount of national aid to education is not perfect, at least we seem to be headed in the right direction.

But this is only part of the answer.

You cannot pour in more water than a pitcher can hold, and in many parts of Appalachia, where population is broadly dispersed, pouring money into each separate school district is clearly not the answer to the problem.

Clearly, one of the best answers is for school districts to pool their assets and share the more specialized school services that are too expensive for one district to support.

This kind of approach is being tried all over Appalachia, but too often school boards balk at such arrangements because they believe they are prohibited by the state constitution from doing so. Only when competent legal advice has been available to them have they been able to find the answer to what they thought, on the basis of inadequate counsel, was a legal impediment.

All over Appalachia, jurisdictions are developing inter-jurisdictional agreements of one kind or another to build *area* schools, *area* hospitals, *area* sanitation systems, *area* water systems, *area* airports.

And in state after state, in order to remove any political obstacle to such common-sense arrangements, the state legislatures themselves are striking down archaic provisions in state laws. In their place, being enacted are new far-seeing provisions that permit new forms of area-wide government capable of providing quality service.

It is no overstatement for me to say that, at this stage of the Appalachian Regional Development Program, the structure and financing of adequate local government is one of our highest-priority concerns, and Appalachian funds are being used by the states of the region to find the new approaches we need.

This is the kind of institutional reform to which regional development is addressed, although not all such problems are concentrated at the state of local level.

Take our federal land acquisition policies as another example. Obviously, in building a new Appalachia, many people will be dislocated as roads, reservoirs, schools, hospitals, airports, and the like are constructed. All of these citizens are entitled to just compensation for what they lose for the region's benefit. Further, it is in the nation's interest to see that these dislocations result in an *improvement* rather than further *deterioration* in the fortunes of the poor families affected.

Yet, as we proceeded we found that federal acquisition procedures all too often worked against the national interest, further compounding the very problems that the project for which land was being acquired was designed to correct.

An example:

In one area of Appalachia, about 250 families were facing displacement because of a reservoir planned for construction. In traditional Appalachian fashion, these families were scattered up several creeks in a very dispersed pattern.

By the standards of the rest of the country, this might not appear to be a community, but it is, and a very tightly-knit one. If normal land acquisition were to go ahead, the fabric of that community would be ripped to shreds, and there would be nothing to replace it.

In addition, many families in the community are tenants. They would normally receive little or no compensation for their loss. Even those lucky enough to receive compensation at "fair market value" would have received so little that they would have no choice but to relocate into even poorer circumstances than those they knew before.

As if to compound the problem still further, we found that the offered price was not necessarily the fair market value—a practice that clearly contravened the intent of the law.

Obviously, a family that knows its rights and can afford to protect them in litigation has at its disposal a system in which ultimately it can obtain just compensation for its property. Families coming from an area such as this one, however, frequently are either unaware of their full rights or do not trust the "system" and the way it operates in their area. As a result, they receive—from a government "by" the people—less than just compensation for their loss. Clearly, here is a case where legal services may be needed. Clearly also some "institutional" changes were in order.

Congress shared that conviction. Working closely with Congress, the commission assisted in a number of important modifications to the law, particularly in connection with the acquisition of lands for highways and reservoirs.

On the question of offering the "fair market value," Congress directed that it will be the policy of a state before initiating negotiations for real property to establish a price that is a fair and reasonable consideration and that the price will not be less than the appraised value of the property. The offer to acquire the property will be made for the full amount.

On the question of preserving the full community, Congress provided an authorization to the Secretary of the Army to acquire lands upon which the entire community may relocate. The site can be obtained on the request of the governor upon demonstration that the development of the site is necessary in order to avert hardships to displaced persons; that the location of the site is suitable for development in relation to potential sources of employment; and that a plan for the development of the site has been approved by the appropriate local jurisdictions. The law now gives authority to a number of public programs to cooperate with the families in planning their new community. In this way, the rights of tenants, as well as land owners, can be protected. A community can be preserved, and the public welfare can be advanced.

This is but one example of how institutional change must accompany the provision of legal services if healthy change is to be accomplished.

During the last four years, the thirteen Appalachian states, with the commission, have been carefully developing a series of plans to improve education, health, transportation, housing, community services, environment, and the use of natural resources in Appalachia.

As John Waters indicated, many new approaches are now being taken in each of these fields. If we couple these plans with the resources, federal, state, and local, needed to carry them out, and, further, if we can place at the disposal of the people in the region the best technical assistance–legal and otherwise they need to make good these plans, we have every right to expect that during the next decade or two we can achieve the kind of life in Appalachia we all want to see.

Q: In highway and urban renewal programs, provisions for relocating the people displaced by these programs, are too often after-the-fact responses. What can be done before the fact? In Charleston, the black community is literally being destroyed by three programs that are ostensibly to help this very community.

WIDNER: Historically, you're right, but in the past five years, Congress has concerned itself with this problem. *Now,* you *must* have a place for relocatees *before* the projects begin.

Q: What about rehabilitation before the fact?

COLLINS: I don't think this is in the offing now–unless we begin with juveniles. Community attitudes are still largely punitive rather than rehabilitative. If a youngster gets into trouble, he gets punished.

If we were to start with the juveniles, we would have to institute massive recreational facilities and other programs to discover the child who might be headed for trouble. I don't think we're prepared for this kind of massive effort now or in the near future.

Q: Are there any legal services other than those funded by OEO?

STIEGLER: There were legal aid offices all over the country before OEO, which didn't come into existence until 1964. Since 1964, however, legal services have increased five- to six-fold. In other words, the major funds now do come from OEO. That doesn't mean, of course, that you *have* to rely on OEO, but there's very little other money around. Ideally, a good legal services program should be operated on a blend of funds–private and governmental.

Q: What about abuse of bail bond and release on recognizance?

COLLINS: This is one of our more serious problems. Rural communities, especially, are afraid to accept release-on-recognizance programs.

Our public defender program operates only for those who can't make bond. In 1964, an accused spent an average of 45+ days in jail before trial; in 1968, the average was 23+ days. This shows the effect of having a defender program. Having a defender, however, is no excuse for the lack of an r.o.r. program. The bulk of the jail population are neither murderers nor rapists.

Too often, bail is used for punishment. The inhuman conditions in county jails makes incarceration in them equivalent to medieval torture. It is imperative, therefore, that we set up a system to get these people out of jail as soon as possible.

STIEGLER: The Vera Institute of Justice was the originator of release-on-recognizance programs. These present another way of using law students in the administration of criminal justice system. They can do the investigation and determine whether or not a particular defendant is material for release on recognizance.

Q: Could you give some examples of use of legal talent in planning programs?

WIDNER: It's incredible what trouble towns can run into when there's no expertise to call on. To give you just one example: In the early 1960's, Congress passed the Accelerated Public Works Act. So now we've got federal employees, non-experts, selling sewer plants. They go up to the mayor–most likely a part-timer without any staff–and say: "How'd you like to have a new sewer plant?" He says, "Sure," and all of a sudden he has a bundle of money for a new sewer plant.

Along then comes a construction company with aerial photographs on which some lines are drawn. The mayor can't really tell what's going on, and there's no one he can ask, so he says, "Go ahead." The company then lays one-third of the planned sewer lines in the part of town that's uninhabited and then runs out of money. In comes a trouble shooter and finds that the construction company hasn't made any blueprint as to where the pipes have been laid. He also finds that, even if the sewer system were completed, there's no one around who could run it.

These kinds of problems could be avoided with advice from a lawyer before the town gets into trouble.

Q: What about the role of the poor?

WIDNER: This is a problem, and I can only speak from a personal conviction. First, you can't run a country of 200 million people like a town meeting, so you've got to have some form of representative democracy. The essential problem, here, is, how you do make representative democracy truly efficient and responsive. With this in mind, you can't just pick somebody with a low income and stick him on the board of directors. The important consideration is his understanding of what the problems are and how the people want them solved.

Toxey H. Sewell, Associate Professor of Law, University of Tennessee, *presiding.*

MR. SEWELL: The purpose of our concluding session this morning is to consider organizing an Appalachian Legal Resource Foundation.

As you doubtless observed from various speakers, one of the principal objectives of this conference is to organize such a foundation to supervise and carry out the programs we have discussed on a permanent basis. As interesting and helpful as our speakers have been, it is apparent that all our thoughts and work would go for nothing unless something were done to complete what has been stated. National Legal Aid and Defender Association, in proposing this conference, states the ultimate purpose to be the formation of a continuing organization.

To help us in our thinking, students at the University of Tennessee College of Law have drafted a proposed Charter and Bylaws for a foundation such as we are considering. It was included in the material passed out to you during registration. This is not intended to be a finished product for us to act on at this time, but rather a draft to be used for reference and further development. Our students have also prepared a survey of attorneys throughout the Appalachian area to help us in our thinking. This survey will show the number of lawyers in each county throughout Appalachia. While we do not regard the survey as mathematically accurate, it is sufficiently precise for our purposes. I might say that it supports dramatically the point made by several speakers during the conference–lawyers tend to gravitate to the larger metropolitan areas. The smaller the county in terms of population, the smaller the ratio of lawyers per 1,000.

The planners of this conference gave considerable thought to how this group should proceed this morning to bring about the permanent organization we week. We concluded there were too many decisions involved for a group like this to resolve in an open meeting. We felt that the best way to proceed would be to create an *ad hoc* commission empowered to make whatever decisions were necessary and proceed to incorporate the foundation. There the matter stood until this morning when Junius Allison tells me that he has a proposal that we should consider.

MR. ALLISON: I propose to read the suggested resolution to you at this time. I do not think we should act upon it now. I will have copies typed and we can distribute them to you while you are sitting in your various state delegations. You can give consideration to the resolution then, and we can act upon it when we reconvene.*

MR. SEWELL: Shortly, we will ask each of you to assemble in the area marked for your state. As only Appalachian states are represented, those of you from other states can sit with any group you wish–possibly those with fewer representatives present.

Each group should proceed as follows: First, the group should select a chairman. Second, each state group should attempt to identify, in broad terms, the problem areas in your state relative to providing adequate legal services. This could relate to such matters as shortage of lawyers or some substantive provision of state law. Chairmen should be prepared to give a brief oral report when we reassemble. Third, each group should consider the resolution proposed by Mr. Allison so that we may be prepared to act on it when we return to this room.

Are there any questions? To meet our time schedules, I request that we reassemble here at 10:15. When we reassemble, we will hear brief reports from each state chairman. After that, the floor will be open for consideration of the proposed resolution.

Please assemble in your groups.

Proceedings within state groups. The
conference reassembled at 10:30 a.m.

MR. SEWELL: We will ask the chairman of each state group, as I call them out, to come forward and give a brief report upon the activities that took place during your individual state's session. After that, we will throw the floor open to general discussion of the resolution that has been put before us, as well as anything else that you want to bring up at that time.

Reports of State Chairmen

Kentucky

MR. MILLS: I am Mike Mills, president of the Kentucky State Bar Association.

We have discussed this with some misgivings. One is that, by our action here, we may register some dissatisfaction with the established programs, with the funding, and with what is expected of the legal service program of OEO.

The objectives here, when put in a proper light, are good. We would like to offer a substitute for a part of the resolution. We would like to say, in the second paragraph: "That the Foundation be given broad powers to provide educational, technical, and promotional services to established and future programs related to legal services for the poor."

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*The resolution, as finally adopted, is reproduced on page 42.

In Kentucky, we have forty-nine counties within Appalachia. We have, in one area, a very good legal services program, and we hope it can serve as a model for the remaining counties. We are presently working very closely with OEO in the development of a program for the remaining forty-nine counties.

Now we fear that, by some action that we might take here, we in some way may register discontent with the on-going programs and plans. We don't want our position in any way to be misconstrued. That is why we do not feel we should establish any sort of body between direct assistance to the counties and the community groups that are formed in our state.

Ohio

MR. BAHLMANN: My name is Jerry Bahlmann. I am director of the Ohio State Legal Services Association.

Basically, we are in agreement with what the representative of Kentucky said. Our principal concern with the resolution, and perhaps with the resolve of this conference, is the lack of broad representation on the committee that will draft the bylaws and charter. We suggest that in addition to the three men who will actually draft the bylaws and charter there be set up an advisory council or advisory committee. The three gentlemen themselves will select members for this advisory committee, but at least two representatives from each state in the Appalachian region should be selected. The representatives should be drawn from this conference, and the representation on the advisory council should be broad. The three men now designated to do the drafting are all associated with law schools. We feel that this conference represent interests broader than just law schools and that these should be represented on the advisory committee.

Tennessee

MR. EBLEN: I am George Eblen.

In addition to the concern shown by the two previous chairmen, I believe that our prime concern was the composition of the commission as indicated in the second resolve. We have some concern as to whether the designated representatives might be representative of the people that we are trying to serve and the people doing the serving. We recommend that the composition of the board of directors of the foundation be expanded to include membership closely connected with legal services. Also, the governors of all the Appalachian states should be represented, and with vote. I also feel that the bar associations should be represented.

Georgia

MR. WATSON: I am Jess Watson, our governor's representative for this conference. I am public defender of Fulton County in Atlanta.

We found no fault with the resolution, nor did we examine the resolution for fault. We spent most of our time identifying the problem.

The state of Georgia has thirty-five counties in the Appalachian region and perhaps ten or twelve bar circuits. We feel that an endorsement of the Governor and an endorsement of the President of the Georgia Bar Association and a recognition, if you please, of the problem by the lawyers in the areas that are affected certainly will bring about a favorable response from the bar and the communities that are affected.

This project is a step in the right direction. To my knowledge, none of Georgia's thirty-five counties in the Appalachian region presently have any form of legal services, including that of an organized system of defending criminal defendants. We feel that we will get the endorsement, the cooperation, and the enthusiastic support of both the Governor of Georgia and the bar association.

Virginia

MR. WOODWARD: I am Bill Woodward. I am President of the Virginia State Bar.

Virginia has a rather small delegation present at this meeting. There is no appointed or delegated representative of the Virginia State Bar Association, so far as I know, present. The Association, so far as I know, present at this meeting. The feeling of our group is that we want to endorse with some enthusiasm the proposed objective of this group. True, we hold no brief for federal assistance or the imposition of federal assistance on the bar or any bar group. We do feel—particularly in the counties within the area of the Appalachian region of Virginia—that there is a clear lack of adequate representation of the indigent. Any program that assists in educating the bar, particularly in this region, by people who have no direct connection with OEO or federal assistance should be supported. It seems to me that—and it seems to us that—it is the purpose of this organization to act in a voluntary way wherever its assistance is solicited. Now from what I have said I do not want this group to have the impression that the Virginia State Bar as a group is opposed to federal assistance. That is not true. We are open-minded about it and we believe that the facts and conditions and the limitations and non-limitations should be studied generally by lawyers and not brushed under the rugs with the idea that anything federal is not to be adopted or even considered. So generally, if I may say from this small group of Virginia people present here, we endorse the objective.

West Virginia

MR. HANLON: I am David Hanlon with West Virginia University College of Law.

We had a sizeable delegation here. We agreed that in all probability the foundation as set up could be very helpful to us in educating the bar and in helping push and adopt programs that might be presented. As to specific points of the resolution and of the committee that is to draw up the articles of incorporation and bylaws, we didn't go into detail on them, and, consequently, I don't think I can state our position on them.

MR. SEWELL: Thank you, Mr. Hanlon. I do not believe we have representative delegations from Maryland, New York, Alabama, or Mississippi. If there are such chairmen, the chair would welcome them to the floor.

Alabama

MR. SEWELL: The Alabama delegation, Mr. Frank Donaldson, joins with the Tennessee group.

Pennsylvania

MR. McCREIGHT: I am Jim McCreight, chairman of the Public Service Committee of the Pennsylvania Bar Association.

We did not consider the proposed resolution in any detail, but we unanimously feel that its objectives are sound and that we would support it.

A very significant part of Pennsylvania is within Appalachia, and, in that part of the state, the legal services are few. The problem is that of mountainous country, rural population, small towns, relatively few lawyers–in other words the very same problems that are confronted throughout the rest of the region. We have no ready-made solution, and we look to this conference and to the foundation to provide us with suggestions. We do feel, as far as Pennsylvania is concerned, that we would be well advised to follow the lead of Ohio and a number of other states in forming a statewide legal services organization to support, guide, and provide resources for legal services units of all kind throughout the common belt.

North Carolina

MR. LEE: I am Kenneth Lee, and I represent the North Carolina State Bar.

We most heartily endorse, in essence, the resolution. We want to become a part of this overall organization and support it.

We realize that, even in our own state from one section to another, there are unique problems present in one that are not present in another. That must be equally true of the entire area, from state to state and within the states. Even so, as I said in the beginning, we enthusiastically endorse the efforts presently being made, and I believe we realize that, to a large degree, we must start on a trial-and-error basis and mend our ways as we go along–but let's start!

South Carolina

MR. HARTER: I am Edward Harter from Columbia, South Carolina. I am director of the Legal Aid Service Agency, an OEO project that has been going on for a little more than two years.

We have approved the resolution. We endorse it. The one suggestion we did have was about the two classes of representatives. If this group did seek OEO money, to conform with guide lines, you would most probably need to add a third representative from each state. He would represent the people to be served.

We only have six counties in Appalachia, and in those six counties we have two legal services programs. Both of these legal services programs are going concerns. They have been accepted by the community, and, as every other program, hope to meet more needs of the people when they get more money to do it. Four counties, though, do not have legal services programs. As you might expect, these are the small counties. These are the areas and, of these six counties, we have three judicial circuits and, of the three judicial circuits, we have legal services in two counties.

MR. SEWELL:* Could we get a motion that the Resolution be adopted?

(Motion made from floor.)

Do I hear a second?

(Motion seconded.)

Let's take up the comments that have been made by a couple of the chairmen. Perhaps we can resolve them and then get into a discussion of the general merits of this proposal. . . .

The draft resolution that you considered during the time you were in state sessions contains a final clause as follows: "That it be further resolved that there be created a not-fot-profit corporation known as the Appalachian Legal Resource Foundation." And then this phrase follows in the original resolution as proposed: "That the Foundation be given broad powers to perform administrative and promotional activities related to legal services for the poor." It has been suggested by the Kentucky delegation that this be changed to read: "That the Foundation be given broad powers to provide educational, technical, and promotional services to established and future programs related to legal services for the poor."

As far as I know, there has never been any intention to criticize or supplant any existing legal service program throughout the whole planning of this conference. Is there any objection to this change? It is acceptable and the change is incorporated. . . .

It has been suggested that, in the phrase, "the Commission is hereby instructed to proceed with the drafting of an appropriate charter and bylaws along the lines suggested by this Conference," the word "Conference" be changed to "Resolution." Is there any objection to that change? No objection. (The change was incorporated.)

The Ohio delegation suggested that, in addition to the ad hoc commission that has been proposed in this resolution, there be an advisory committee or board consisting of two delegates from each state taken from the participants of this conference. This is a problem because some states do not have that many participants here. Some states have none. Perhaps they can be taken from the participants of this conference unless not possible. Is there any objection to this?

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*Because of technical difficulty, almost none of the remarks from the floor were picked up by the tape. As a consequence, only Mr. Sewell's remarks have been transcribed and appear here. From his comments on the discussion, the sense of the conference is discernible.

It would seem to me that the purpose of the ad hoc Commission is to go ahead and do something as a result of our meeting. There is no intention that it act alone, apart from what the various states who have representatives here intend. There is no reason at all why the finished product, before anything is done, could not be resubmitted to you. The only thing we do wish to avoid is having another conference for this purpose. Any comment on it? . . .

It has been suggested by Mr. Miller that before any final action is taken by this Commission, it be resubmitted to the chairman of the various state delegations, except that for those not here we will find a chairman and then submit it to him, and get their comments and approval before anything is done. Is that satisfactory to everyone? Are there any further comments? . . .

It has been suggested that the ad hoc commission itself select members of the advisory committee, which has been proposed by the Ohio delegation. Any objection to this? . . .

In essence, Professor Marlin Volz would propose that the three members of the ad hoc commission get together very shortly after consulting the advisory members of this organization. We should attempt to resolve something by August and complete our work in October. . . .

(Comments by Mr. Steve Cawood to the effect that the ad hoc Commission was not representative.)

The purpose of this ad hoc Commission is not to run the foundation. It is simply to carry out the objectives of this conference. I am not sure that full representation in this type of work is even necessary. . . .

I am sure that the wording of the Resolution can be changed in order to accommodate that type of problem. The amendment is with respect to sub-paragraph one regarding provisions in the proposed bylaws: "The policies of the Foundation be set by a board of directors composed of twenty-six (26) members, each Appalachian state having two representatives. . . ." Where it says, "one being selected by the state bar association," it is suggested that be changed to read: "one being selected by the statutory state bar, or, if none, by the voluntary bar association." Are there any objections to this? (None.) . . . There have been suggestions by South Carolina and Tennessee, and informally by others, that we delve rather specifically into the subparagraph that now reads: "That the Bylaws should provide for the following, among other things: (1) The policies of the Foundation be set by a board of directors composed of 26 members, each Appalachian state having two representatives, one being selected by the statutory state bar or if none by the voluntary bar association, and one being chosen by the Governor of the state." . . .

The ad hoc commission itself would consult with the members of an advisory committee that we would select, and in turn we would submit whatever finished product is developed for the study and comment of each state representative. Hopefully, something finally could be resolved on this matter along about October. In other words, I would suggest that there will be an occasion for everyone again to have a chance to study this matter.

Right now we are concerned with how should we instruct this commission to act. How should we charge them to organize, to form this foundation? What should be the membership of the board of directors? I think we are at that stage. . . .

(Comments by Mr. Harter to the effect that board membership must have representation by the poor to qualify for OEO funding.)

I would say very clearly that we would hope to qualify for OEO funds. Any suggestion on how to handle this apparent impasse we have come to?

It has been moved that this resolution be amended to provide that one-third of those members on the board of the foundation be representatives of the groups to be served. It has been seconded. . . .

Do you wish to amend the motion that you seconded? Do you withdraw your second and withdraw your motion then? (Motion and second withdrawn.) . . .

It has been moved and seconded that the phrase we have had so much difficulty with be changed to read as follows: "That the by-laws should provide for the following, among other things: The policies of the Foundation be set by a board of directors, composition to be prescribed by the ad hoc Commission, each Appalachian state to have representation so arranged as to represent the interest of the governors, bar associations, and the affected clientele." Are you ready for a vote? All those in favor, please signify by saying "Aye." Opposed? Motion carries.

There is a motion on the floor, and seconded, that this resolution be adopted with the amendments that have been entered into the text. Are you ready for the question? All those in favor of the resolution as amended please signify by saying "Aye." Opposed? Again passed. . . .

resolution

WHEREAS, this Appalachian Legal Services Conference was convened as a result of invitations issued generally throughout the region to law schools, bar associations, legal services offices, labor groups, community organizations, and to other segments of the population;

WHEREAS, the news media (newspapers, radio, and television) publicized the conference, announcing that all persons interested in the improvement of the Appalachian region are invited to participate in the Conference;

WHEREAS, the various announcements and invitations listed the formation of an Appalachian Legal Resources Foundation as one of the purposes of the Conference;

WHEREAS, the Conference being held in Knoxville, Tennessee, July 24-26, 1969, is broadly representative of the people of the thirteen states constituting the Appalachian region; now, therefore, be it

Resolved, That this conference declare itself to be a delegate assembly for the purpose of establishing an Appalachian Legal Resource Foundation; be it further

Resolved, That there be created a not-for-profit corporation known as the Appalachian Legal Resource Foundation; that the foundation be given broad powers to provide educational, technical, and promotional services to established and future programs related to legal services for the poor; that the foundation be authorized to receive grants and contributions for the support of its objectives; be it further

Resolved, That in order to carry out the wishes of this conference as expressed in the general sessions, in the state caucuses, and in order to implement these resolutions as soon as possible, there is hereby created an *ad hoc* commission composed of Marlin Volz of Kentucky, as chairman, Thomas Cady of West Virginia, and Toxey Sewell of Tennessee; that the commission is hereby instructed to proceed with the drafting of an appropriate charter and bylaws along the lines suggested by this resolution; that the bylaws should provide for the following, among other things:

That the policies of the Foundation be set by a board of directors, composition to be prescribed by the *ad hoc* commission, each Appalachian state to have representation so arranged as to represent the interest of the governors, bar associations, and the affected clientele; and be it finally

Resolved, That the commission is authorized and instructed to perform other administrative duties and activities in the name of the conference necessary to get this foundation established and operating.

Adopted at Knoxville, Tennessee, on the 26th day of July, 1969, at 11:45 a.m.

appendices

appendix I

charts I and II from
Klein, Jewel, "Law School Legal Aid Programs:
A Survey," *NLADA Monograph 1* (1969)

In March, 1968, the Legal Aid Committee of the American Bar Association's Law Student Division prepared a survey on law school legal aid activities. The questionnaire was then distributed to all ABA-accredited law schools. Unfortunately, those that prepared the survey were unable to complete the project before their graduation. In January, 1969, the National Legal Aid and Defender Association assumed responsibility for analyzing the responses. The tables here reproduced as Appendix I are from the monograph that resulted from the survey.

The following chart shows the number of students involved in the various programs, the requirements for participation, whether academic credit is given, and organizations cooperating in running these programs.

CHART I

	No. of Students[1]	CRITERIA FOR PARTICIPATION[2]	CREDIT GIVEN[3]	PROGRAM RUN IN COOPERATION WITH[4]: Legal Aid & Defender Org.	Other Law Schools	Law Enforce. Agencies	Local or State Bar Assns.	OEO Legal Services	Public Defender	OTHER	
Akron ('68)[5]		All students who have completed ½ of courses prerequisite to grad.	No, but required for graduation	x				x			Akron
Alabama ('68)	24	Criminal law course, faculty aprvl., taken or taking criminal procedure	Yes	x						NDP	Alabama
American ('68)	50		For some programs	x	x		x	x			American
Arizona ('69)			Yes, for some programs	x				x			Arizona
Baylor ('68)	15		Yes					x			Baylor
Boston College ('69)	43	Selection by interview	No								Boston College
Boston U. Defender Prosecutor ('68)	 30 30	Seniors only; upper 2/3's of class; faculty recommendations; Law Review & Moot Court excluded	Yes							School is considering a similar program which would operate with an OEO office	Boston U.
Buffalo ('68)	15	Upper 1/3 of class preferred		x				x	x		Buffalo
California (Berkeley)('69)			Yes, for some programs	x				x	x		California (Berkeley)
UCLA ('69)	150		Yes, for some	x				x	x		UCLA
Case-Western Reserve ('68)			Yes	x					x		Case-Western Reserve
Catholic ('69)		On the basis of class standing, faculty recommendations, approval by Dean	For some programs	x				x			Catholic
Chicago ('68)	10		No	x						Federal Defenders	Chicago
Cincinnati ('68)	30-40	Approval by Dean	Yes	x				x			Cincinnati
Cleveland-Marshall ('69)	15		Yes, for some	x							Cleveland-Marshall
Colorado ('69)	70		Yes, for seminar connected with the clinic				x				Colorado
Columbia ('68)	20		No, but can satisfy writing requirement	x							Columbia
Connecticut ('69)	55		Yes, as of Fall '69								Connecticut
Cornell ('69)	60	1.2 cumulative index	No				x				Cornell
Creighton ('69)	10-15	Good standing, juniors only	Yes	x				x			Creighton
Cumberland ('68)		Seniors preferred, juniors only by permission	Yes	x							Cumberland
Denver ('68)	80-100	Prerequisite courses depend on program	Yes	x				x	x		Denver

	No. of Students	CRITERIA FOR PARTICIPATION[2]	CREDIT GIVEN[3]	PROGRAM RUN IN COOPERATION WITH[4] Legal Aid & Defender Org.	Other Law Schools	Law Enforce. Agencies	Local or State Bar Assns.	OEO Legal Services	Public Defender	OTHER	
Detroit, U. of ('69)	23	Demonstrated ability to take on extra program	Yes					x			Detroit
Dickinson ('68)	30	72 average	Yes	x			x	x	x		Dickinson
Drake ('68)	30-45	Good standing	Yes & required	x				x			Drake
Florida ('69)	30-35	Good standing, completion of preparatory seminar	Yes				x		x		Florida
Florida State ('69)	30	Seniors only; consent of faculty advisor	Yes						x		Florida State
Fordham ('69)			No	x				x			Fordham
Franklin ('69)	all	Last 3 semesters	Required for graduation	x				x	x		Franklin
Georgetown ('69)	7	Seniors only, top ½ of class, Legal Aid Soc. membership or equiv.	Yes		x						Georgetown
George Washington ('69)	7	Seniors only, flexible, look to grades & experience	Yes		x						George Washington
Georgia ('69)	40		No								Georgia
Gonzaga ('68)	3	Selection by Dean	No				x				Gonzaga
Harvard (CLAO) ('69)	120		No					x			Harvard (CLAO)
Harvard (LAB) ('68)	45	40 from top 10% of class, 5 selected on basis of interest	No							Independent corporation	Harvard (LAB)
Harvard Vol. Defs. ('69)	75	Interviews & tests	No								Harvard Vol. Defenders
Howard ('68)	80	Entire senior class	Yes & required for graduation	x		x	x	x	x		Howard
Illinois ('69)			No	x				x	x		Illinois
Indiana (Indpls.) ('69)	8-10		Yes	x				x			Indiana (Indianapolis)
Iowa ('68)[6]			No	x		x		x		And area reformatories	Iowa
Kansas ('69)			Yes, for some programs	x			x	x			Kansas
Kentucky ('69)		Seniors in good standing	Yes	x			x				Kentucky
Loyola (Chicago) ('68)			No	x						Federal Defenders	Loyola (Chicago)
Loyola (N.Orleans) ('69)		Good standing & faculty recommendation	No	x	x			x			Loyola (New Orleans)
Marquette ('68)	20-30	Good standing	No					x			Marquette
Marshall ('68)	30	1.35 average (1.0 = C)	No	x					x	Federal Defenders	Marshall
Maryland ('68)	24	Seniors only, selected by Dean	Yes	x				x			Maryland
Memphis State ('68)	15		Yes						x		Memphis State
Mercer ('68)	12	Seniors only	Yes	x			x				Mercer

	No. of Students[1]	CRITERIA FOR PARTICIPATION[2]	CREDIT GIVEN[3]	PROGRAM RUN IN COOPERATION WITH[4]							
				Legal Aid & Defender Org.	Other Law Schools	Law Enforce. Agencies	Local or State Bar Assns.	OEO Legal Services	Public Defender	OTHER	
Miami ('68)			Yes						x		Miami
Michigan ('68)	90-125	C average or better	No				x	x			Michigan
Minnesota ('68)	150	Acceptance into clinic after work tested	Yes	x	x	x	x	x	x		Minnesota
Mississippi ('69)	20	Good standing	Yes	x				x		NLADA (NDP grant)	Mississippi
Missouri (K.C.) ('68)		Good standing	Yes								Missouri (Kansas City)
New Mexico ('68)	100%	Seniors only	No, but required for graduation	x							New Mexico
N.Y. Law School ('69)			No	x							New York Law School
New York U. ('68)	30	Not on probation	No	x							New York University
North Dakota ('68)	25	Faculty approval	No				x				North Dakota
Northwestern ('68)	120	Poverty law course is a prerequisite	Yes	x						Federal Defenders	Northwestern
Notre Dame ('68)	15	Acceptance into Legal Aid & Defender Association	Yes			x	x	x			Notre Dame
Ohio Northern ('68)	40	Good standing	No					x			Ohio Northern
Ohio State U. ('68)	45		Yes	x						And "other sources"	Ohio State University
Oklahoma ('68)			No				x	x			Oklahoma
Oregon ('68)			No					x			Oregon
Puerto Rico ('68)	100%	Seniors only	Yes					x			Puerto Rico
Richmond ('68)		B average	No							4th Fed. Cir. Ct. of Appeals	Richmond
Rutgers (Newark)('69)	75	All, including freshmen	No, but proposed	x					x		Rutgers (Newark)
St. John's ('68)	18	73 average	No	x							St. John's
USC ('69)	10-60	Good standing	Yes	x	x		x	x	x		USC
USC Vol. Defs. ('69)			No								USC Vol. Defenders
So. Methodist U. ('68)	40	Good standing	Yes	x		x	x	x			Southern Methodist U.
Stanford ('69)	120	Open to all students, including freshmen	Yes, for some programs			x	x	x	x		Stanford
Temple ('69)	66	All, including freshmen, not on probation	No	x							Temple
Tennessee ('68)	70	Seniors only	Yes				x	x			Tennessee
Texas ('69)	60	Seniors, others by permission	Yes	x			x				Texas
Texas So. U. ('68)	5	Seniors only	Yes	x							Texas Southern Univ.
Toledo ('69)	30	Basic course in criminal law	Yes								Toledo
Tulane ('68)			No								Tulane
Utah ('68)	30	Seniors only, good standing	Yes				x	x			Utah

				PROGRAM RUN IN COOPERATION WITH[4]							
	No. of Students[1]	CRITERIA FOR PARTICIPATION[2]	CREDIT GIVEN[3]	Legal Aid & Defender Org.	Other Law Schools	Law Enforce. Agencies	Local or State Bar Assns.	OEO Legal Services	Public Defender	OTHER	
Valparaiso ('68)	13	Good standing	No								Valparaiso
Vanderbilt ('69)	25		No				x	x			Vanderbilt
Virginia ('68)			No	x							Virginia
Washburn ('68)			No								Washburn
Washington ('68)	25	Good standing	No					x			Washington
Washington (St.L) ('69)	18		No	x			x				Washington (St. Louis)
Wayne State ('69)	80	Passing grades	Yes					x			Wayne State
William & Mary ('69)	10%	Good standing	Yes				x				William & Mary
Wisconsin ('68)	49	80 average, faculty approval, poverty law seminar is a prerequisite	Yes	x			x				Wisconsin
Wyoming ('68)	53		No							Assigned counsel system	Wyoming

[1] Question 3c: "How many participate in the clinic?"

[2] Question 3a: "Is participation restricted to the junior or senior classes? If so, which classes?" (Unless otherwise noted, participation is open only to members of the 2nd and 3rd year classes.) Question 4b: "Are there any other requirements (i.e., faculty recommendations, previous legal experience)? What are they?"

[3] Question 3: "Is academic credit given for participation in the clinic?"

[4] Question 1b.

[5] The year of the response is indicated in parentheses after the name of the school.

[6] Clinic to be opened in the fall of 1969.

The following chart shows the types of legal aid programs, by whom these programs are supervised, and the location of the legal aid clinics.

CHART II

	TYPES OF PROGRAMS[1]					SUPERVISION BY[2]				LOCATION[3]			
	Civil Matters	Criminal Matters	Legal Educ. for the Poor	Research	Assist. in Draft. Legislation	Law Schools[4]	Paid Attys.	Vol. Attys.	Other	On the Univ. Campus	In a Poverty Area	In Mid. or Upper Income Area	Other
Akron	x					x	x				x		& downtown
Alabama		x				x	x				x		
American	x	x		x		x	x			x			& courthouse
Arizona	x	x			x	x	x				x		& downtown
Baylor	x				x	x	x						in the city of Waco
Boston College	x	x	x		x		x				x		
Boston Univ. Defender		x				x	x				x		
Prosecutor		x				x	x						
Buffalo	x	x	x	x	x	x					x		
California (Berkeley)	x	x				x	x			x	x		
UCLA	x	x	x	x	x		x			x	x		
Case-Western Reserve	x	x				x	x		Students, Public Defender				Cleveland Legal Aid & Public Defender Office
Catholic		x		x		x			Local Alumnae	x			& downtown
Chicago	x	x	x	x	x	x	x			x			
Cincinnati	x	x	x				x				x		
Cleveland-Marshall	x	x	x	x	x		x				x		
Colorado	x	x		x			x			x			
Columbia	x	x		x			x				x		& downtown
Connecticut	x	x				x				x	x		& state prison
Cornell	x	x				x				x	x		
Creighton	x		x	x			x						
Cumberland	x	x				x	x						county courthouse
Denver	x	x		x	x	x	x			x	x		
Detroit	x	x	x	x	x	x					x		
Dickinson	x	x		x	x	x	x				x		
Drake	x			x	x	x	x				x		& downtown
Florida	x	x				x				x			& downtown
Florida State		x				x			Public Defender				
Fordham	x	x				x	x				x	x	
Franklin	x	x				x	x				x		
Georgetown	x					x	x						downtown
Geo. Washington	x					x							courthouse
Georgia	x	x	x				x						adjacent to courthouse
Gonzaga	x					x	x				x		
Harvard (CLAO)	x	x	x	x	x	x	x				x		& model city's areas
Harvard (LAB)	x			x	x				students	x			
Harvard Vol. Defs.		x		x		x			& Mass. Defend. Comm.	x			
Howard	x	x	x	x		x	x	x		x	x	x	
Illinois	x	x	x	x	x	x					x		
Indiana (Indpls.)	x	x			x			x					downtown
Iowa	x		x				x						downtown
Kansas	x	x	x	x	x	x	x	x		x	x		
Kentucky	x	x				x					x		
Loyola (Chicago)	x	x				x		x					downtown
Loyola (N.Orleans)		x				x	x						

[1] Question 2: "Which fields of legal aid services does the program engage in?"

[2] Question 7: "By whom is the program primarily supervised?"

[3] Question 8: "Where is the clinic office located?"

[4] Where respondent answered that students were supervised by an attorney paid by the law school, the answer was included under column "Law Schools." Where respondent indicated that legal aid or OEO attorneys supervised the programs, the answer was included in column "Paid Attorneys."

	TYPES OF PROGRAMS[1]					SUPERVISION BY[2]				LOCATION[3]			
	Civil Matters	Criminal Matters	Legal Educ. for the Poor	Research	Assist. in Draft. Legislation	Law Schools[4]	Paid Attys.	Vol. Attys.	Other	On the Univ. Campus	In a Poverty Area	In Mid. or Upper Income Area	Other
Marquette	x	x	x	x	x		x				x		
Marshall	x	x				x		x	& Public Defender				downtown
Maryland	x	x		x			x				x		
Memphis State		x							Public Defender				downtown
Mercer	x			x				x					downtown
Miami		x				x			& Public Defender				
Michigan	x						x				x		
Minnesota	x	x	x	x	x	x	x		& Public Defender	x			
Mississippi	x	x	x	x	x	x	x						downtown
Missouri (K.C.)	x	x	x	x			x				x		
New Mexico	x						x				x		& county courthouse
N.Y. Law School	x						x						
New York U.	x						x			x			
North Dakota		x				x		x		x			
Northwestern	x					x	x			x			& downtown
Notre Dame	x	x				x	x	x	& 3rd yr. students		x		& downtown
Ohio Northern	x		x				x				x		
Ohio State U.	x	x		x	x	x				x			
Oklahoma	x		x	x			x				x		
Oregon	x						x						downtown
Puerto Rico	x	x	x	x	x	x				x			
Richmond		x					x			x			
Rutgers (Newark)	x	x		x		x			& students	x			
St. John's	x			x		x	x						business area
U. of So. Calif.	x		x	x			x						x
USC Vol. Defs.		x							students	x			
Southern Methodist	x	x			x	x	x			x			
Stanford	x	x	x	x	x				students		x		private attys. & pub. def. offices
Temple	x					x	x			x			
Tennessee	x	x	x	x	x	x	x			x	x		
Texas	x	x	x			x	x			x	x		
Texas So. U.	x	x				x				x			
Toledo		x				x	x						Ofcs. Municipal & County Pros. & Legal Aid Society
Tulane	x	x		x					students				
Utah	x		x	x	x	x				x			
Valparaiso	x	x	x			x	x					x	
Vanderbilt	x					x	x						downtown
Virginia	x	x						x				x	
Washburn		x				x				x			
Washington	x			x			x				x		
Washington (St.L.)	x	x		x			x				x		
Wayne State	x					x					x		
Western Center on Law & Poverty[5]	x	x			x	x				x	x		
William & Mary	x	x					x				x	x	
Wisconsin	x	x		x			x			x			& downtown
Wyoming	x	x			x	x	x			x			

[1] Question 2: "Which fields of legal aid services does the program engage in?"

[2] Question 7: "By whom is the program primarily supervised?"

[3] Question 8: "Where is the clinic office located?"

[4] Where respondent answered that students were supervised by an attorney paid by the law school, the answer was included under column "Law Schools." Where respondent indicated that legal aid or OEO attorneys supervised the programs, the answer was included in column "Paid Attorneys."

[5] The Western Center maintains on-campus offices at UCLA and Loyola University (Los Angeles). Its main offices are located at the University of Southern California Law Center.

appendix II

"Practice of Law" by Law Students

Proposals to permit law students to "practice" have been stimulated by the OEO Legal Services Program, the Council on Legal Education for Professional Responsibility (formerly called the National Council on Legal Clinics), NLADA, and indirectly by the *Gideon* and *Gault* decisions. The ABA Section of Judicial Administration has appointed a committee, headed by Judge Alvin Rubin of New Orleans, to prepare a model state rule. Such was drafted and submitted to the ABA House of Delegates in February 1969. The Rule (see next page) was adopted.

Questions for Discussion

If law students provide actual representation in court, what safeguards are necessary to assure that such representation is competent, especially in criminal cases?

How much lawyer time is required to supervise law students appearing in court and otherwise representing the poor?

Should "practice" be limited to students enrolled in schools accredited by the American Bar Association?

Should "practice" be limited to senior students, i. e., those who have completed two-thirds or more of the courses required for graduation? Should practice be limited to students who meet a certain academic average?

Should there be different standards for participation of students in civil and criminal cases? What about juvenile court?

Will representation by law students fulfill constitutional requirements?

According to reports of NLADA, the following states permit "practice" by law students in certain courts:

Colorado (Rev. Stat. Sec. 12-1-19 (1963) and Rule 54 of Revised Crim. Pro. in County Courts.) Covers civil and criminal practice. Senior law students may be appointed to represent indigent defendants in county courts, which have misdemeanor jurisdiction.

Connecticut By informal rule of the Supreme Court, Yale law students who are members of the Legal Aid Society may represent indigents in the small claims division of the circuit court and at some administrative hearings.

Florida (Crim. Pro. Rule 2, Rule No. 1-860, Florida Rules of Criminal Procedure.) A senior law student in an accredited school may appear in a municipal or trial court on behalf of any insolvent defendant, provided, however, that conduct of case is under immediate personal supervision of a public defender. No provision for civil cases.

Georgia (Code Sec. 9-401.1, enacted 1967.) Statute allows senior law students to appear without compensation in behalf of indigent persons in civil and criminal cases under supervision of an approved law school legal aid agency. All pleadings must be signed by a licensed attorney, and an attorney must be present in the conduct of a trial.

Illinois Proposed rule pending.

Indiana Proposed rule pending.

Massachusetts (Supreme Jud. Ct. Gen. R. 11.) With written approval of his law school dean, a student who has completed successfully his next to last year of law school may appear without compensation on behalf of the Commonwealth or an indigent defendant in the district court. This court has jurisdiction of misdemeanors and minor felonies, subject to appeal and trial *de novo* in the Supreme Court. The district court also holds preliminary hearings in other felonies. Students also appear in civil cases.

Michigan (Supreme Court R. 921, adopted in 1966.) A member of a law school legal aid clinic, under the supervision of a member of the state bar, may advise indigent persons, negotiate, and appear in the courts in their behalf. The lawyer need not be present in the office or courtroom, but he must examine and sign all pleadings. No student may appear in court without permission of the judge of that court. Any student who has completed 28 semester hours or the equivalent is eligible (normally one year of school for a full-time student). See 12 Wayne Law Review 519-24 (1966).

Minnesota Rule of Court. (Minn. Stat. Ann. Vol. 27B, Rule I, Rules of the Supreme Court.) Supreme Court may permit senior law students to appear under supervision, in trial courts in behalf of indigent clients in civil or criminal actions.

Montana Special order of Supreme Court (1966) permitting senior law students to prepare petitions for inmates of state prisons. Also under statute allowing a layman to appear in court, law students represent indigent in justice of peace courts. (Mont. Rev. Code Ann. Par. 97-6704.) (1947).

New Jersey Supreme Court Rule 1:12-8A(c). Permits any third year law student, in a school approved by ABA, or any law school graduate, to appear in behalf of indigent persons in matters referred to them by a legal aid society in division of small claims and other matters in county district court.

New York (Penal Law, Art. 24, Sec. 270. See N. Y. Judiciary Law, Sec. 478.) Law students in senior or final year of law school acting under supervision of a legal aid organization may appear in court when acting under a program approved by appellate division of supreme court.

Oklahoma (Order of Supreme Court entered May 29, 1967.) Authorizes limited license to practice law by legal interns, consisting of students needing 30 academic hours or less to complete law school. Each intern must also have completed 60 hours of diversified legal work under supervision of an attorney. The intern may appear in courts of record under supervision of an attorney and may handle misdemeanors and minor civil matters in courts not of record without an attorney. This is the only rule that grants a license "to practice law."

Pennsylvania (Supreme Court Rule 12-1/2.) Allows a graduate criminal law student enrolled in Pennsylvania to appear in criminal cases in association with an organized defender association. License terminates when enrollment in law school terminates.

Tennessee (Supreme Court Rule 37, Sec. 21.) Any senior student participating in a law school legal aid clinic may represent an insolvent person in civil or criminal proceedings under immediate and personal supervision of a licensed attorney.

Wyoming (State Bar Rule 18.) Senior law students may, without fee, and under supervision of a licensed attorney, participate in preparation and trial of any cause in justice and district courts, both civil and criminal. Student must have permission of law school dean, justice or judge, and counsel for both sides.

Federal General Rule No. 41 for Northern District of Illinois (1966) allows law students of the legal internships defender program to appear, under supervision, for clients in district court. Court of Gen. Sess., Washington, D.C., Resolution of Board of Judges, authorized by U.S. District Court, October 14, 1968.

Note: Other jurisdictions permit student internship on a *de facto* basis or under provisions authorizing such activity in minor courts.

American Bar Association Proposed Model Rule Relative to Legal Assistance by Law Students

I. Purpose

The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rule is adopted:

II. Activities

A. An eligible law student may appear in any court or before any administrative tribunal in this State on behalf of any indigent person if the person on whose behalf he is appearing has indicated in writing his consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

1. Any civil matter. In such cases the supervising lawyer is not required to be personally present in court if the person on whose behalf an appearance is being made consents to his absence.
2. Any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer is not required to be personally present in court if the person on whose behalf an appearance is being made consents to his absence.
3. Any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer must be personally present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

B. An eligible law student may also appear in any criminal matter on behalf of the State with the written approval of the prosecuting attorney or his authorized representative and of the supervising lawyer.

C. In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

III. Requirements and Limitations

In order to make an appearance pursuant to this rule, the law student must:

A. Be duly enrolled in this State in a law school approved by the American Bar Association.

B. Have completed legal studies amounting to at least four (4) semesters, or the equivalent if the school is on some basis other than a semester basis.

C. Be certified by the dean of his law school as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern.

D. Be introduced to the court in which he is appearing by an attorney admitted to practice in that court.

E. Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require.

F. Certify in writing that he has read and is familiar with Canons of Professional Ethics of the American Bar Association.

IV. Certification

The certification of a student by the law school dean:

A. Shall be filed with the Clerk of this Court and, unless it is sooner withdrawn, it shall remain in effect until the expiration of eighteen (18) months after it is filed, or until the announcement of the results of the first bar examination following the student's graduation, whichever is earlier. For any student who passes that examination or who is admitted to the bar without taking an examination, the certification shall continue in effect until the date he is admitted to the bar.

B. May be withdrawn by the dean at any time by mailing a notice to that effect to the Clerk of this Court. It is not necessary that the notice state the cause for withdrawal.

C. May be terminated by this Court at any time without notice of hearing and without any showing of cause. Notice of the termination may be filed with the Clerk of the Court.

V. Other Activities

A. In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this Court, but outside the personal presence of that lawyer, including:

1. Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.
2. Preparation of briefs, abstracts and other documents to be filed in appellate courts of this State, but such documents must be signed by the supervising lawyer.
3. Except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of this Court, assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record.
4. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he participated in drafting only a portion of it, that fact may be mentioned.

B. An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.

VI. Supervision

The member of the bar under whose supervision an eligible law student does any of the things permitted by this rule shall:

A. Be a lawyer whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled.

B. Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.

C. Assist the student in his preparation to the extent the supervising lawyer considers it necessary.

VII. Miscellaneous

Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to do anything that he might lawfully do prior to the adoption of this rule.

appendix III

Law Students as Legal Interns

The following two articles are reprinted, with permission, from the Student Lawyer Journal. *Both appeared in the December, 1968, issue.*

Law Student Use by CJA Counsel

by Dallin H. Oaks
Professor of Law, University of Chicago

The Federal Criminal Act, 18 U.S.C. Sec. 3006A (hereafter "CJA"), recognizes that the defense of needy criminal defendants is a public responsibility. For many years the public has tried to fob this responsibility off on the practicing bar, by expecting them to contribute their services without compensation or for unreasonably low compensation. Human nature being what it is, it is not surprising that some segments of the bar have attempted to pass some of the burden off on someone else, specifically on law students.

Of all segments of the profession, law students have the smallest resources of time, money, and experience to devote to the defense of needy persons. Yet their eagerness for involvement in this important work and their desire for experience make them an easy mark for lawyers or judges who would have them shoulder part of the burden. Proposals for law student involvement are often launched in the name of education, but, unless superbly administered and controlled, they can result in little education but considerable exploitation.

Elements of a Good Program

In the course of our study, *The Criminal Justice Act in the Federal Courts*, we found that the bar is generally enthusiastic about using law students in CJA representation. We studied ten districts that have made some use of law students, and we are sure there must be others. In general, the use of law students in CJA representation has not lived up to expectations. Although many law student programs look good on paper, their lofty expectations are not yet being realized in practice. With but few exceptions, law student programs involving CJA representation have not yet demonstrated that the students are generally beneficial to CJA counsel or that the student work increases the quality of representation of needy criminal defendants. Even those programs set up primarily (or ostensibly) to educate the law student, such as those designed to awaken interest and give exposure and training in trial advocacy, have encountered problems holding student interest since some lawyers are not willing or able to take the time necessary to bring the student into the action. In any event, law student education programs have not proven directly beneficial to the administration of the Criminal Justice Act.

In order to achieve meaningful law student involvement in CJA representation, a program should have three elements: (1) an outside administrator (not a practicing lawyer or a student) responsible for bringing the lawyers and students together; (2) student involvement during summers, vacations, or under part-time circumstances where law school studies do not compete for their time; and (3) student performance of tasks that counsel cannot readily do for themselves. In addition, if the program is to be fair to law students, it should have a fourth element: The law students should be compensated.

Montana Program

Let me illustrate my first three requirements. The District of Montana has what seems to be a successful program administered by the Montana Law School under a grant from the NLADA National Defender Project. Third-year law students assist court-appointed counsel with investigation, primarily in cases arising on Indian reservations. In this widespread district, the site of court and the residence of court-appointed counsel is frequently 100 to 400 miles from the place where the crime occurred, and the district has a large proportion of crimes of violence where on-scene investigation may be important. Student involvement as investigators can result in improving the quality of defense. The student work is done during summers and school vacations. Students are reimbursed for their expenses, but they are not compensated. The Montana Law School, which is appointed as the investigative agency under sub-section (e) of the Criminal Justice Act, receives CJA payment for investigative work. The chief judge of the district reports that the students are conscientious in their work, and that the bar welcomes and values their assistance.

Mississippi Program

At the time of our study, the University of Mississippi Law School was just initiating a law-student program, also financed by a grant from the National Defender Project, that seemed to hold equal promise. Here CJA panel lawyers are frequently located in outlying areas far removed from libraries, and many lack access to even the most basic research materials in federal criminal practice. Immediately after his appointment, the law school contacts CJA counsel and advises him of the availability of students to assist in "interviewing witnesses, performing legal research, and doing any general legwork necessary in the preparation of the case." If counsel accepts the offer, a student is assigned from a group of volunteers. Sudents are paid expense money but no compensation. No CJA funds are paid to the law school for this service.

Problems Encountered

Other student programs have been less successful. Those without central administration simply do not work. CJA counsel who have a list of volunteer students they can telephone when they need assistance rarely call on them and claim they receive unsatisfactory responses when they do. Programs conducted during the school year put the student at a severe disadvantage, since school demands prevent him from budgeting efficient and reliable blocks of time to work on cases. Lawyers frequently complain that students cannot be depended upon to complete their research or investigative assignments. Other attorneys complain that students actually detract from the quality of the CJA representation since they take up more of the attorney's time than can be justified by the work they produce. Once the novelty has worn off, many students will sense that their presence is a drag or that they are performing non-essential tasks or tasks that the lawyer could easily perform for himself, and they drop out of participation. Other kinds of student work that are potentially useful, such as legal research, rapidly become routine and cannot hold student interest: Students generally have enough legal research in their formal law studies. The factor most likely to retain student interest and loyalty is the knowledge that they are being useful, that they are doing something important for counsel and the defendant that counsel could not readily do for himself. That feature characterizes both the Montana and Mississippi programs.

Compensation for Students

The trouble with the Mississippi and Montana programs, and with law student CJA programs generally, is that they have an element of exploitation because the participating students are not compensated. If students are not performing a highly useful function in CJA representation, we ought not to take their time, unless, of course, the program is of real educational benefit to the student. If the student *is* performing a useful function, he ought to be paid. Otherwise, he is being exploited.

As a practical matter, law students cannot now obtain CJA compensation for time spent as an investigator or for doing legal research. As the act is presently written and administered, expenditures for legal research by persons other than the appointed attorney are disapproved. This situation should be changed. There are good reasons why law students should be paid for performing essential defense functions they can do as well as practicing lawyers, especially investigation or legal research. Involving law students in Criminal Justice Act defense should have favorable long-range effects on the number of lawyers interested in and qualified for federal criminal defense. And having such a resource may increase the quality of representation in some cases by encouraging CJA counsel to have investigative work or research done that would otherwise go undone, particularly where library facilities are available to students but inaccessible to counsel.

Law student involvement in CJA representation is unlikely to prove fair and workable until CJA compensation can be paid to law students. Many law student programs, as presently administered, are of little benefit to CJA representation or to students and will fall of their own weight. The few programs that are of value to CJA representation (and thus are able to retain student interest since the student is performing an essential defense role) exploit the student by taking his time without compensation.

Conclusion

To conclude my point by a slight overstatement, I am suggesting that law students can't be used to real advantage in Criminal Justice Act representation without exploiting them. No matter how willing law students may be, I submit that it is morally indefensible to impose on them for any portion of the burden of indigent defense. That burden properly belongs to the public at large. If the public imposes any part of the burden on the legal profession, then that burden should be borne by the earning members of the profession.

Legal Internship Pilot Program
Oklahoma Bar Association

by Joseph M. Culp, Austin R. Deaton, Jr., and
B. J. Cooper

The Legal Internship Pilot Program is an experimental study undertaken by the legal internship committee of the Oklahoma Bar Association, under an endorsement of the Board of Bar Examiners of Oklahoma and special rules authorized by the Supreme Court of Oklahoma.

The purpose of the pilot program is to obtain factual data for the legal internship committee to use in evaluating the desirability of some type of permanent internship program, and if such an internship is found desirable, the manner of operation to be utilized in a permanent program.

Historical Background

The long range planning committee of the Oklahoma Bar Association in their report for 1963 recommended the creation of a legal internship committee. Their studies and reasons for this recommendation were published in the Oklahoma Bar Association Journal.[1]

Acting on this recommendation, James D. Fellers, O. B. A. President in 1964, appointed the first legal internship committee.

The formulated aims and objectives of the committee were and are:

"A. To determine need, areas, means and resources for a legal internship program.

B. To maintain close liaison with law schools to take advantage of practical training programs in existence.

C. If needed, to propose a program of legal internship and recommend its adoption by the bar association."[2]

The committee determined early that its purpose was closely intertwined with the legal education programs of the state law schools and requested, and obtained, the addition of committee members, designated by the respective deans, as representatives of the law schools. These members have proven to be invaluable, providing not only liaison with the administrations of the law schools on their academic programs, but also acquainting the committee with the attitudes, desires and interests of the law students.

The committee, so composed, then began studies into similar existing programs in operation in other states.

Professor Ralph Thomas, University of Tulsa, furnished detailed information obtained by him in his research paper on this subject.[3]

Most of the existing programs in operation at that time were mandatory post-graduate programs. There had been some published criticism of one of these programs and disadvantages appeared to the committee in its investigation.[4] Other operating programs were volunteer programs conducted under sponsorship of one or more law schools utilizing last-year students on a part-time basis to afford some limited legal services to indigent persons.

Because of the disadvantages associated with the existing mandatory, post-graduate programs, the committee directed its attention toward the volunteer, in-school programs. The lack of published information, the limited time of operation and the variations in operation of the known volunteer programs caused the committee to come to the conclusion that some sort of experimental operation should be undertaken, on a limited basis, before further decisions could be made by the committee.

With this in mind, the legal internship committee in its initial report to the bar association in November of 1964 recommended:

" . . . that a trial program or pilot project . . . be initiated and that the Oklahoma Supreme Court give favorable consideration to the limited admission to practice of a small number of students who are in the second semester of their senior year at one of the accredited law schools in the State of Oklahoma. . ."[5]

As a collateral development of its studies, the committee came to the conclusion that the bar association should offer greater assistance to the law schools in providing staff and material for "practical skills training courses" offered after graduation, but before examination for admission to the Bar. In its first report to the bar association the Committee included a recommendation that such a practical training course should be offered.[6]

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[1] O. B. A. J. Vol. 34, pg, 2374, December 28, 1963.

[2] Minutes of Legal Internship Committee, March 28, 1964.

[3] O. B. A. J. Vol. 36, pg. 959, May 29, 1965, Ralph Thomas' Published Citation.

[4] "Comments on the Pennsylvania Preceptors System," 31 Pennsylvania Bar Association Quarterly 73 and "Lawyers Checkup, Reform of the Pennsylvania Preceptorship Program," 23, *The Shingle* 170.

[5] Report of Legal Internship Committee to Oklahoma Bar Association, November 12, 1964.

The committee's recommendation for the pilot project was referred to the board of bar examiners by the executive council of the bar association. The bar examiners in turn created a sub-committee to study the recommendation.

During 1965, while the recommendation was being studied, the committee continued its investigation into the operation of volunteer programs. Particular study was given to programs in operation in Colorado (at the University of Colorado and Denver University) and Texas (at Southern Methodist University). Each of these programs was a volunteer program, using last-year students to assist in the operation of aid clinics, under supervision of practicing attorneys. Actual student participation was limited by rules of court adopted for the program.

To afford additional information about the operation of such programs to the legal internship committee, the sub-committee of the board of bar examiners and the executive council of the bar association, the Committee arranged for Professor Joseph McKnight, director of the SMU Legal Aid Clinic, to appear before a joint meeting of these groups. Professor McKnight outlined their method of operation, the limitations imposed on the students, and the problem areas they had encountered in their program and then answered questions from the floor.

The report of the committee for 1965 pointed out the limited activity of the committee, pending action on its recommendation.

In 1966 the committee continued its investigation of other programs utilizing law students and became aware of the impending expansion of legal aid services under the auspices of the Office of Economic Opportunity. The committee requested and obtained the permission of the Board of Directors of the Oklahoma County Legal Aid Society to send one of the committee Members to its meetings and to include in its proposed expanded service plan provision for utilization of law students.

In 1967, the president of the bar association directed the legal internship committee to prepare a proposed plan for the pilot project recommended in 1964.

Development of Pilot Project

Initial proposals of a set of "Rules Governing the Limited License," to be adopted by the supreme court, were prepared by Dean Ted Foster, Oklahoma City University, and presented to the committee as a whole for discussion. A sub-committee was then appointed to refine the proposals and to include items suggested in the disussion.

Through the cooperation of the director of the expanded legal aid society and some volunteer students of the University of Oklahoma, a proposed "Application for Adoption of Rules and a Brief" in support of the Application was prepared for submission to the Supreme Court of Oklahoma.

The proposed rules were then forwarded to the board of bar examiners for their review. Representatives of the committee met with the board of bar examiners on April 1, 1967, and explained the intent of the Rules. The board endorsed the rules as proposed, subject to some suggested modifications.

After including the modifications suggested, the rules were presented and explained to the board of governors of the bar association by representatives of the committee on April 13, 1967.

Following some further modifications, the board took favorable action on the proposed rules and directed preparation of the application and brief in support thereof. On May 17, 1967, the application and brief was filed with the supreme court. A joint meeting of the board of governors and the supreme court was held on May 24, 1967, to present and explain the pilot project and the rules proposed.

On May 24, 1967, following the joint meeting, the supreme court adopted "in principle" the proposed program. Because of an objection to the program voiced by one attorney, supported with a brief, the court reserved action on adoption of specific rules until their conference on May 29, 1967.

On May 29, 1967, the supreme court entered its order adopting "Rules Governing Limited License to Practice."

The legal internship committee then adopted policy guidelines for the initial implementation of the program. On September 8, 1967, the supreme court authorized the appointment of interview panels. On October 5, 1967, the legal intenrship committee, having been delegated operation of the pilot program, adopted guidelines for the interviewing panels.

The initial group of thirty-two applicants were interviewed on November 9, 1967. Twenty-three of the applicants were recommended for limited licenses as legal interns and on November 14, 1967, the supreme court granted the limited license and administered the special oath for legal interns to the first class of interns.

The second group of applicants was interviewed on February 3, 1968, and on February 8, 1968, an additional seven interns were licensed.

A third group of fifteen applicants has been interviewed on May 18, 1968, and thirteen of those were recommended for licensing on June 4, 1968.

Operation of the Pilot Project

Since the basic purpose of the pilot project is to obtain information for the committee to use in evaluating the desirability of some type of permanent program of internship and, if so, what type of program would be most suitable for Oklahoma, the committee has emphasized the necessity of the participating interns maintaining detailed records of their activities, submitting monthly reports, and, at the conclusion of their participation, submitting a concluding report, with suggestions and/or criticisms and their daily time records.

Particular attention has been directed at determining whether the law-student interns are engaged in enough activities, under their limited license, that could not be performed by student law clerks, without such a license, to warrant the time, effort, expense, and hazards associated with the granting of a limited license. The analysis of the reported data and supervision of the interns has been assigned to Professor Thomas, as legal intern coordinator, but without funds or staff, he has been limited in his opportunities to compile and tabulate the available data. It is hoped that in the second year of operation additional funds and a small staff will be available. Steps are being undertaken to locate additional funds for this project.

Using the term "program oriented" to indicate activities that required the limited license, the reports of iterns, evaluated to date, reveal the following data:

Approximately 12% reported doing only routine research, checking dockets, contacting debtors and similar "non-program oriented" activities.

Another 10% report doing mostly "non-program oriented" work, but the portion of their time on "program oriented" matters reported indicates some measure of recognition of the intent of the program.

Another 10% of the interns devoted approximately 25% of their time to "program oriented" activities.

Therefore, it appears that approximately 30% of the interns, after having been granted their limited license, spent less than half of their time in "program oriented" activities.

Of the remaining 70% of the reports studied, however, the committee found significance, not only in the amount of "program oriented" activity, but in the quality of the program oriented" work permitted.

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[6] *Ibid.*

Specific examples of the activities referred to include:

1. One student who devoted almost 50% of his time to "program oriented" work which included handling, under his preceptor's supervision, a friendly suit, a joint petition in the industrial court, trial of a justice of the peace case, incorporation and franchise tax work in a business, and a real estate foreclosure action.

2. Another intern spent approximately 50% of his time in desirable activity which included abstract examination, preparation of wills, initiating a divorce action, and courtroom observation.

3. One intern by his own categorization indicates only about 12% of his time was spent in program-oriented work but a third of that was preparation and trial of a traffic court case.

4. Another intern lists about 25% of his time as not within the scope of this program and although some of the remainder reported may be questionable because of the communication program mentioned earlier, it is significant that the remainder includes presentation of motions in two cases, and approximately 25% of total time spent in trial where he made the opening statement in one case and part of the closing argument in the other, and put on evidence in both.

5. One intern spent about 10% of his time in courtroom work and perhaps another 10% in interviewing clients and preparation of pleadings. Although the "program oriented" work accounts for only 20% of his time the report does show an appreciation of the teaching possibilities by his preceptor.

6. Another intern spent approximately 20% of his time in "program oriented" activity including observing two trials, preparing some pleadings and actually presenting part of the argument in a hearing on a writ in the supreme court.

7. Another intern, a full-time employee of a state officer, appeared before an administrative agency and before an appeals court, arguing four cases before the latter.

It is impressive that nearly 70% of the interns had a significant amount of "program oriented" activity, and that of this group, approximately 70% had experience which was not fee generating for his preceptor. Courtroom observation, presentation of matters, and participation in trials by the intern under the guidance of the preceptor indicate a high degree of responsibility on the part of the supervising lawyers. Even in the more routine office work, while the student is doing the work, the employer must check the work, which may require retracing the steps taken by the intern.

Problems Encountered For a program so new in concept to the persons charged with its operation there have been remarkably few problems.

The matter of failing to file reports necessary for the project to fulfill its function resulted in the committee requesting suspension of four interns of the first class. Since that action, there has been no further difficulty in reports being filed by the interns.

The committee has encountered a problem area in handling other violations of the rules, primarily because of lack of provision for investigative procedures and hearing machinery. The permanent program should so provide.

A major problem is the difficulty of involving sufficient students and supervisors in varied enough geographic locations and types of practice to obtain a true sample of this pilot project.

The next greatest problem is encouraging the participating supervising attorneys to give the intern the opportunities to perform "program oriented" activities that are available in their practice.

The solution to these two problems appears to be an educational program directed to practicing attorneys to acquaint them with the pilot project and to educate them to its proper utilization and potential.

Conclusion

Although the preliminary data has not been fully evaluated, it appears that a program of this nature has real value both to the Bar, as a whole, and to the individual participant, sufficient to probably warrant a permanent program.

The balance of the project is being operated with the thought in mind of making certain a true sample is being obtained and refining means and mechanics to be suggested for operation and regulation of the participants in a permanent program, if adopted, and to further analyze the raw data being produced by the reports being filed by the participating interns.

appendix IV

Work Program for West Virginia Legal Services, Inc.*

Attached to CAP Form 7 as item 7.1.2.

I. Organization of West Virginia Legal Services

A. Development of the program.

The West Virginia State Bar, in recognition of its responsibility to the people of the State of West Virginia, submits this program to provide free civil legal services for those West Virginians unable to afford an attorney. This program represents the concerted effort of the entire legal profession and its organizations, the College of Law and the West Virginia Office of Economic Opportunity to produce the very best in a legal services program for the poor of West Virginia.

The history of the development of this program begins in October 1967. In that month, Assistant Professor of Law, Thomas C. Cady, wrote letters asking leaders of the legal profession to meet with him at the State Bar's annual meeting to discuss the possibility of a legal services program for the state. Immediately recognized by the leaders of the bar was a twofold fact: (1) That increasingly legal services programs would be established in West Virginia and (2) that the legal profession ought to assume a position of leadership in assuring that these legal services programs be properly supervised and controlled by the bar.

At the same time six students in Professor Cady's seminar on Law and Poverty were conducting research to determine the "Provisioning of Legal Services in West Virginia," the "Legal Needs of the Poor," and finally to produce a "Proposed Legal Service for West Virginia." As a result of these studies and continued interest by the bar and the College of Law, a conference on "A Legal Service Program for West Virginia" was called for late March 1968.

By special letter from Dean Selby selected leaders of the legal profession, as well as leaders from the legislature, social work, education, religion and labor, were invited to the conference. Nationally recognized experts in the legal needs and attitudes of poor and in legal service programs from throughout the country presented papers at the conference. These papers have been printed in Volume 70 of the "West Virginia Law Review."

Our final step was taken. For three months of the summer of 1968 Professor Cady toured the entire state contacting prominent members of the bar, county bar presidents, Vista workers, C.A.P. workers, and poor people to determine what kind of legal services program would be both effective and acceptable for West Virginia.

As a result of this combined effort, this program is hereby submitted by the West Virginia State Bar, the legal profession and the people of West Virginia to insure that all our people, without regard of their ability to pay, receive the assistance of counsel.

B. Governing Body

1. Composition of the Governing Body

The Governing Body of West Virginia Legal Services, Inc., shall be known as the Board of Directors. Special effort has been made to include persons on the Board of Directors from every area of the state and from every area of professional life. The choice of any person for the Board of Directors was made on basis of title rather than personality of the person so titled.

1. Paul L. Selby, Jr., Member, Dean, West Virginia University College of Law
2. Harry G. Shaffer, Jr., (Herschel Rose) Member, President, West Virginia State Bar
3. James H. Coleman, Jr., (Zane Grey Staker) Member, President, West Virginia Bar Association
4. Stanley E. Preiser, Member, President, West Virginia Trial Lawyers Association
5. Thomas E. Potter, Member, President, West Virginia Trial Lawyers Association
6. William C. Weaver, Member, President, Kanawha County Bar Association
7. Rt. Rev. Wilburn C. Campbell, Member, Bishop of the Episcopal Diocese of West Virginia
8. Most Rev. Joseph H. Hodges, Member, Bishop of Diocese of Wheeling
9. Major George Woods, Member, City Commander, Salvation Army of Wheeling
10. Rabbi Samuel Cooper, Member, B'nai Jacob Synagogue, Chairman, West Virginia Human Rights Comm.
11. Dr. Marshall Buckalew, Member, President, Morris Harvey College, President, West Virginia Foundation for Independent Colleges, Inc.
12. Bishop D. Fredrick Wertz, Member, Bishop of West Virginia Area of the United Methodist Church
13. Harry G. Hoffman, Member, Editor, The Charleston Gazette
14. N. W. Levin, Member, President, WBOY-TV, Clarksburg
15. Emil Mogul, Member, President WWVA, Wheeling
16. Marrs Wiseman, Member, Secretary-Treasurer, West Virginia Manufacturers Association
17. Miles C. Stanley, Member, President, West Virginia Labor Federation, AFL-CIO
18. Mrs. Howard J. Jackson, Member, President, The League of Women Voters of West Virginia
19. Mrs. Charlotte H. Bedwell, Member, President, West Virginia Association of Legal Secretaries
20. Representative, Northern West Virginia C.A.P.
21. Representative, North-Central West Virginia C.A.P.
22. Representative, West-Central West Virginia C.A.P.
23. Representative, Eastern West Virginia C.A.P.
24. Representative, Southern West Virginia C.A.P.
25. Representative, Southern West Virginia C.A.P.

**Developed by Thomas C. Cady, assistant professor of law, West Virginia University, as a first draft working proposal for consideration by the West Virginia State Bar, August, 1968. There has been no approval or rejection of the plans so far.*

2. Powers of the Board of Directors.

The Board of Directors of West Virginia Legal Services, Inc. shall have the power to hire and fire the officers of the corporation and to establish by-laws, rules and regulations to govern the general direction and policy of the corporation. No such by-law, rule or regulation however shall interfere with the traditional ethical requirements relating to the attorney-client relationship upon the lawyers employed by the corporation.

C. Personnel

1. Attorneys

a. The chief executive officer of West Virginia Legal Services, Inc. shall be known as the Director. He will be an attorney of substantial practice experience and possessed of state-wide prestige. To be preferred as the Director is an attorney with some experience in legal aid and considerable sensitivity to the legal service program. The Director's salary shall be $25,000 per year.

b. The assistant executive officer of West Virginia Legal Services, Inc., shall be known as the Deputy Director. He should be an attorney of considerable legal service practice experience. The Deputy Director's salary shall be $15,000 per year.

c. The senior staff attorneys of West Virginia Legal Services, Inc., shall be known as the District Directors. Each one of the ten district offices throughout the state will be supervised by a District Director. Preferably, a District Director should be 30 to 35 years old, of five to ten years practice experience and have a working knowledge of legal services programs. It is hoped that personnel to fill these positions can be recruited from other legal services programs already in operation throughout the country. Their salary shall be $15,000 per year.

d. The front-line lawyers of West Virginia Legal Services, Inc., shall be known as the Staff Attorneys. To staff adequately the district offices and the special support function units in the headquarters group, 23 staff attorneys will be needed. The staff attorneys should be recent law graduates to attorneys having 2 to 5 years practice experience. Their salary shall be $8,000 to $12,000 per year.

2. Other staff

a. A headquarters group which will provide special support functions for West Virginia Legal Services, Inc., should include the following units and specialists.

1. Technical Support Unit. The Technical Support Unit will provide extra-legal interdisciplinary support for the staff attorneys in the field and other specialist units in the headquarters group. Included in this unit will be an Economist at $16,000 per year, a Psychologist at $18,000 per year and a Rural Sociologist at $16,000 per year.

2. The Administration and Finance Unit. This unit will provide the housekeeping support for West Virginia Legal Services, Inc. One accountant will supervise the functions of this unit. His salary should be $10,000 per year.

3. Education and Training Unit. This unit will provide intra and extra law firm educational support functions for West Virginia Legal Services, Inc. One staff attorney will head this unit at a salary of $8,000 to $12,000 per year. It is envisioned that this unit would develop comprehensive and continuing educational programs for the staff attorneys in the firm as well as for the citizens of the state served by West Virginia Legal Services, Inc.

4. Research and Reform Unit. This unit will provide the continuing legal research support for the staff attorneys so necessary to bring about fundamental change in the various institutions and rules of law erected prior to the time that the poor of West Virginia were provided with comprehensive legal services. One staff attorney will head this unit at a salary of $8,000 to $12,000 per year.

5. Trial and Appeal Unit. This unit will provide experienced trial and appellate advocate support service for the staff attorneys. It is expected that the one attorney in this unit will assist the staff attorneys in the preparation and presentation of particularily difficult or complicated cases at trial and on appeal. His salary will be $8,000 to $12,000 per year.

6. West Virginia Legal Services, Inc., will employ 17 highly experienced legal secretaries to provide both secretarial and legal aid support functions for the staff attorneys. It is contemplated that many of the more rountine functions traditionally performed by attorneys can be delegated to those specially trained secretaries thus freeing the staff attorneys to devote more time to more complicated legal matters. These secretaries' salary will be $4,800 per year.

7. West Virginia Legal Services, Inc., will employ 15 law students for four months each summer in a developed summer internship program. Some of these law students may, upon graduation, seek employment as staff attorneys. As to those not choosing the program, hopefully, they will have been sensitized to view sympathetically the poor and the efforts of West Virginia Legal Services, Inc. These law students will be employed at a salary of $400 per month.

II. Operations

A. Community Needs

The State of West Virginia is richly endowed in natural and human resources and problems. Located almost entirely in the Appalachian Mountain range, the state is proudly known as the Mountain State. This rugged terrain is a blessing and a bane.

The State embraces a land area of 24,079 square miles, in a roughly oval shape, except for a northern and an eastern panhandle, and a declining population estimated in September 1967 to be slightly less than 1.8 million. West Virginia is among the most rural of states. Divided into 55 counties, only seven are classified as urban with an urban population of only 40 percent. This low percentage is in sharp contrast to the national average of urban population which in 1968 stood at 70 percent.

A general assesment of the economic and social well-being and the corresponding need for a legal services program may be made by considering statistics relating to income and employment, housing and education.

1. Income and Employment. Per capita personal income in West Virginia is estimated to have been $1,671 in 1960, far below the national norm of $2,217. This state figure of $1,671 however is misleading since 43 of the state's counties had per capita incomes of less than the state average. Furthermore, there is wide variation among the counties. In 1963, West Virginia had only one county with a per capita personal income of more than $2,500 while having six counties with a per capita personal income of less than $1,000. Taking 1960 as the base year and a total state population of persons 14 years and older as approximately 1.3, the percent distribution of income by size class for West Virginia and the nation is as follows:

Percent Distribution of Income by Class Size
for West Virginia and the U.S. for 1960

Total Persons	*W. Va. %*	*U.S. %*
14 years and older	100.0	100.0
without income	36.5	28.4
with income	63.5	71.4
$1–999	31.3	25.4
$1,000–1,999	15.6	14.6
$2,000–2,999	11.6	12.1
$3,000–3,999	10.6	11.3
$4,000–4,999	9.6	10.4
$5,000–5,999	8.0	8.9
$6,000–6,999	5.2	5.8
$7,000–9,999	5.8	7.1
$10,000–over	2.6	4.3
Total	100.0	100.0

This table indicates several significant facts. In 1960 West Virginia had a greater share of its income earners in the lower economic classes, and a smaller share in larger classes than did the nation. West Virginia had 58.5% of all its income earners in the $3,000 and less class, compared to 52.1% of all national wage earners. Furthermore, West Virginia lagged behind the national average by approximately 5% points in income-earners above $5,000.

Translated into terms of families, West Virginia in 1960 had approximately 12% of its families with income below $1,000; 22% of its families with income below $2,000; and fully one-third of its families with incomes below $3,000.

In terms of labor participation rates, West Virginia (45.4% in 1960 was fully 10 percentage points behind the national average (55.3%). Unemployment has been a major problem in West Virginia. Unemployment rates since 1950 have been substantially above national levels ranging from a high in 1960 of 13.6 percent to a low of 5 percent in 1965.

2. Housing. As previously mentioned approximately 60 percent of West Virginians live in rural areas. Two-thirds of rural non-farm dwellings are classed as dilapidated, or lacking in sanitary facilities, or both. In urban areas the record is not substantially better. There is a net shortage of more than 12,000 dwellings, regardless of condition, for the 81,000 plus urban families and individuals with incomes under $3,000. As a result, in 1960, only 57 percent of West Virginia's families lived in housing classified as adequate.

3. Education. While significant steps have been made in recent years to improve education in West Virginia, staggering problems remain. In 1963-64, West Virginia expenditure per pupil in average daily attendance was only $300, approximately one-third lower than the national average. In the same year, the average salary for public school teachers was $4,735–more than $1,000 below the national average. The high school drop-out rate in West Virginia has always been higher than the national average and for 14-15 year olds it actually increased between 1950-1960.

According to Professor Mooney, whose seminal article in the *West Virginia Law Review* provided the model for this program, there are 500,000 West Virginians needing free legal services:

"The excellent working papers prepared for this conference relieve me of the chore of delivering that dreary litany of poverty statistics so familiar in Appalachia. But in order to give us a starting point let's note that up to 40% of West Virginia's 1.8 million people may be members of a family group aggregating less than $3,000 annually. Nearly half-a-million West Virginians are poor by anybody's definition. These people could be idealized into 100,000 family units of five persons–a mother, father and three children–more accurately perhaps they can be seen as 50,000 such typical family units, 25,000 composed of an elderly man and his wife, 15,000 composed of ten persons (mother, father, 6 children and 2 elderly grandparents) plus about 50,000 individuals."

B. Existing Legal Services

There are presently two legal services programs funded by the O.E.O. in operation in West Virginia. They are: The Charleston Legal Aid Society and The Mingo County Legal Services, Inc. At the time of this writing, information concerning budget and other particulars had not been received.

C. Facilities

West Virginia Legal Services, Inc., will provide legal services offices throughout the state operating through 10 district offices serving a surrounding district area. The staffing and location of the district offices is as follows:

Dist.No.	*City*	*Staff*
1	Wheeling	District Director; 2 Staff Attorneys; 1 Secretary
2	Morgantown	District Director; 1 Staff Attorney; 1 Secretary
3	Martinsburg	District Director; 1 Staff Attorney; 1 Secretary
4	Elkins	District Director; 1 Staff Attorney; 1 Secretary
5	Clarksburg	District Director; 2 Staff Attorneys; 1 Secretary
6	Parkersburg	District Director; 2 Staff Attorneys; 1 Secretary
7	Charleston	District Director; 5 Staff Attorneys; 2 Secretaries
8	Huntington	District Director; 2 Staff Attorneys; 1 Secretary
9	Beckley	District Director; 2 Staff Attorneys; 1 Secretary
10	Bluefield	District Director; 2 Staff Attorneys; 1 Secretary

The headquarters group of West Virginia Legal Services, Inc., will be located in Charleston. The staff of the headquarters group includes the following: Director, Deputy Director, 3 Staff Attorneys, an Accountant, a Rural Sociologist, an Economist, a Psychologist and 6 Secretaries.

D. Eligibility Standard

As described above, per capita personal income varies widely throughout the State. Not surprisingly, this wide variation in incomes affects the lawyers of the State. Since one of the premises of this proposal is that West Virginia Legal Services, Inc., will be submitted by the lawyers of West Virginia, no lawyer in the state must be economically hurt by an unrealistically high eligibility standard. Accordingly, the eligibility standard for any district office should be established by consultation of the district director and the local bars effected.

Several guidelines, however, should be followed:

1. The eligibility standard should not be so high that it includes clients who can afford an attorney without jeopardizing their ability to have food, shelter and clothing.

2. The eligibility standard should include such factors as income, dependents, assets and liabilities and cost of living in the county.

3. The eligibility standard should exclude all fee-generating cases such as contingent and statutory or administratively fixed fee cases. If the fee involved in such cases is not sufficient to attract a private attorney the client should otherwise become eligible.

E. Scope of Services

Comprehensive, quality legal services will be provided by West Virginia Legal Services, Inc., in all areas of civil law including community education, preventive law, advice and counseling, representation, trial and appellate litigation before all levels of the state and federal courts, administrative agencies and legislative bodies. These services will be provided to the poor individually and to groups of the poor.

F. Referral System

No adequate referral system exists in any West Virginia county. District Directors will seek to establish proper and ethical procedure to refer ineligible clients in cooperation with local bar association.

G. Coordination with Social Services Agencies

West Virginia Legal Services, Inc., will work closely with all private and public social services agencies so that the system of mutually beneficial interreferrals can be established. It is recognized that many of the problems faced by the poor require such a close working relationship with other non-legal disciplines and that such other disciplines could be an effective source of clients.

H. Improvement of the Legal System

West Virginia Legal Services, Inc., will seek through its staff attorneys in the field and the specialized Research and Reform Unit to research and reform any institution, rule of law or regulation relevant to the causes and problems of poverty.

I. Training of Staff Members

The Education and Training Unit of West Virginia Legal Services, Inc., will establish programs necessary to train attorneys prior to their being assigned to a district office and will develop such other continuing legal education programs to periodically bring staff attorneys up to date on the most recent developments in poverty law.

J. Preventive Law and Community Education

The education and Training Unit will develop necessary programs and materials that will be used by staff attorneys in educating the public about law. Also contemplated are programs prepared for use in elementary and secondary schools by teachers. Radio, television and the newspapers will be used to encourage the poor to seek the assistance of an attorney. A vigorous outreach program is planned using lay aids, leaders among the poor and any person within the state who regularly comes in contact with the poor.

K. Research

The Research and Reform Unit will conduct a comprehensive program of traditional legal research, and, in conjunction with the Technical Support Unit, a program of empirical "law-in-action" research.

L. Other Aspects of the Program

It is hoped that by the addition of 35 full-time poverty attorneys to the bar of this state a substantial impact in serving the pure legal need requirements of the poor can be made. Hoped for also is the goal that these attorneys can produce a fundamental change in the institutions, structures and rules of law that bear so heavily upon poor. While the problem of this service-reform dichotomy has not been solved by any legal service program, West Virginia Legal Services, Inc. may make a significant contribution in this regard with its heavy emphasis upon the supporting units in the headquarters group. By this, it is meant, that by a more severe specialization of functions between emphasis on service by the staff attorneys and research and reform efforts by the specialized function units in the headquarters group that a satisfactory mix of functions can be achieved.

III. Evaluation and Review

Sufficient procedures and forms will be produced and used by West Virginia Legal Services, Inc., to facilitate thorough and efficient record keeping and review. The forms will provide information so that the following statistics may be generated:

1. Number of applicants
2. Size of household units represented by applicants
3. The income of applicants and their household units
4. Source of applicant including how he become aware of legal services
5. Type of problems presented
6. Disposition
7. Type of service rendered
8. Outcome of case
9. Allocation of time

IV. Limitations on Federal Assistance

The non-federal share of the total estimated cost of West Virginia Legal Services, Inc., will be provided by the State of West Virginia in cash and in kind. The state contribution will be an absolute addition to its expenditures since the State does not now support any legal services program in the State.

appendix V

The 1967 Lawyer Statistical Report

The American Bar Foundation
(Reproduced by permission)

STATES: POPULATION-LAWYER RATIO, 1966

STATE	Population	Number of Lawyers	Population per Lawyer	Rank In Country		Percentage		Percentage Change 1963-1966	
				Population	Number of Lawyers	of U.S. Population	of U.S. Lawyers	Population	Lawyers
ALABAMA	3,517,000	3,041	1,157	21	29	1.79	0.96	5.1	7.3
ALASKA	272,000	308	883	51	51	0.14	0.10	9.7	20.8
ARIZONA	1,618,000	2,233	725	34	33	0.82	0.70	3.8	16.8
ARKANSAS	1,955,000	1,927	1,015	31	35	0.99	0.61	5.2	25.3
CALIFORNIA	18,918,000	28,414	666	1	2	9.61	8.97	7.5	12.2
COLORADO	1,977,000	4,002	494	30	25	1.00	1.26	0.8	7.3
CONNECTICUT	2,875,000	4,828	595	24	20	1.46	1.52	7.8	10.0
DELAWARE	512,000	621	824	47	47	0.26	0.20	7.6	10.5
DISTRICT OF COLUMBIA	808,000	14,455	56	40	6	0.41	4.59	1.3	5.2
FLORIDA	5,941,000	9,549	622	9	11	3.02	3.01	5.1	12.1
GEORGIA	4,459,000	5,464	816	15	16	2.27	1.72	7.7	6.3
HAWAII	718,000	663	1,083	41	46	0.36	0.21	3.5	11.4
IDAHO	694,000	769	902	43	43	0.35	0.24	- 2.7	8.6
ILLINOIS	10,722,000	20,310	528	5	3	5.45	6.41	5.8	5.4
INDIANA	4,918,000	5,206	945	12	17	2.50	1.64	4.8	2.1
IOWA	2,747,000	3,810	721	25	26	1.40	1.20	- 1.2	5.4
KANSAS	2,250,000	3,114	723	29	28	1.14	0.98	1.1	4.7
KENTUCKY	3,183,000	3,555	895	22	27	1.62	1.12	2.8	5.4
LOUISIANA	3,603,000	4,825	747	19	21	1.83	1.52	5.4	9.8
MAINE	983,000	1,020	964	38	40	0.50	0.32	0.1	3.1
MARYLAND	3,613,000	6,464	559	18	13	1.83	2.04	9.9	12.6
MASSACHUSETTS	5,383,000	11,354	474	10	8	2.73	3.58	3.2	4.9
MICHIGAN	8,374,000	10,221	819	7	10	4.25	3.23	3.2	6.4
MINNESOTA	3,576,000	5,188	689	20	18	1.82	1.64	2.2	5.2
MISSISSIPPI	2,327,000	2,505	929	28	32	1.18	0.79	1.6	8.2
MISSOURI	4,508,000	7,692	586	13	12	2.29	2.43	4.2	3.8
MONTANA	702,000	970	724	42	41	0.36	0.31	- 0.7	0.9
NEBRASKA	1,456,000	2,525	577	35	31	0.74	0.80	- 0.3	3.6
NEVADA	454,000	608	747	48	48	0.23	0.19	23.4	25.9
NEW HAMPSHIRE	681,000	700	970	45	45	0.35	0.22	8.6	6.2
NEW JERSEY	6,898,000	10,498	657	8	9	3.50	3.31	6.6	8.5
NEW MEXICO	1,022,000	1,152	887	36	39	0.52	0.36	0.4	7.7
NEW YORK	18,258,000	52,195	350	2	1	9.28	16.47	3.1	5.6
NORTH CAROLINA	5,000,000	4,279	1,168	11	23	2.54	1.35	5.0	10.6
NORTH DAKOTA	650,000	745	872	46	44	0.33	0.24	2.5	- 0.1
OHIO	10,305,000	15,705	656	6	5	5.25	4.96	1.3	1.8
OKLAHOMA	2,458,000	4,855	506	27	19	1.25	1.53	-13.7	3.0
OREGON	1,955,000	2,845	687	31	30	0.99	0.90	7.1	6.3
PENNSYLVANIA	11,582,000	12,914	897	3	7	5.88	4.08	1.4	6.3
RHODE ISLAND	898,000	1,211	742	39	38	0.46	0.38	1.5	9.8
SOUTH CAROLINA	2,586,000	2,094	1,235	26	34	1.31	0.66	4.1	8.4
SOUTH DAKOTA	682,000	794	860	44	42	0.35	0.25	- 7.5	1.0
TENNESSEE	3,883,000	4,771	814	17	22	1.97	1.51	5.1	9.0
TEXAS	10,752,000	16,333	658	4	4	5.46	5.15	4.2	9.6
UTAH	1,008,000	1,261	799	37	37	0.51	0.40	2.5	10.9
VERMONT	405,000	513	789	49	49	0.21	0.16	3.8	10.1
VIRGINIA	4,507,000	5,799	777	14	15	2.29	1.83	4.1	15.7
WASHINGTON	2,980,000	4,084	730	23	24	1.51	1.29	- 2.3	7.6
WEST VIRGINIA	1,794,000	1,766	1,016	33	36	0.91	0.56	0.9	2.4
WISCONSIN	4,161,000	6,237	667	16	14	2.11	1.97	2.5	3.7
WYOMING	329,000	462	712	50	50	0.17	0.15	- 2.4	- 0.7

appendix VI

Appalachian Lawyers and Population by Counties*

(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Tennessee			**Maryland**			**Georgia (contd.)**			**Alabama (contd.)**		
Anderson	60.0	58	Allegany	84.2	64	Madison	11.2	2	Lawrence	24.5	8
Bledsoe	7.8	2	Garrett	20.4	13	Murray	10.4	3	Limestone	36.5	22
Blount	57.5	35	Washington	91.2	75	Poulding	13.1	9	Madison	117.3	191
Bradley	38.3	37				Pickins	8.9	4	Marion	21.8	10
Campbell	27.9	19	**Mississippi**			Polk	28.0	18	Marshall	48.0	30
Cannon	8.5	9	Alcorn	25.3	22	Rabun	7.5	7	Morgan	60.5	64
Carter	41.6	35	Benton	7.7	5	Stephens	18.4	16	Pickens	21.9	9
Clairborne	19.1	13	Chickasaw	16.9	12	Towns	4.5	1	Randolph	19.5	8
Clay	7.3	4	Choctaw	8.4	5	Union	6.5	5	St. Clair	25.4	11
Cocke	23.4	13	Clay	18.9	13	Walker	45.3	26	Shelby	32.1	14
Coffee	28.6	28	Itawamba	15.1	7	White	6.9	4	Talladega	65.5	32
Cumberland	19.1	15	Kemper	12.3	2	Whitfield	42.1	35	Tallapoosa	35.0	17
DeKalb	10.8	7	Lee	40.6	47				Tuscaloosa	109.0	138
Fentress	13.3	9	Lownder	46.6	30	**New York**			Walker	54.2	29
Franklin	25.5	15	Marshall	24.5	12	Allegany	44.0	32	Winston	14.9	9
Grainger	12.5	6	Monroe	33.9	17	Broome	212.7	347			
Greene	42.2	26	Noxubee	16.8	5	Cattaraugus	80.2	82	**Kentucky**		
Grundy	11.5	4	Oktibbeha	26.2	14	Chatauqua	145.4	139	Adair	14.7	7
Hamblen	33.1	33	Pontotoc	17.2	7	Chemung	98.7	120	Bath	9.1	4
Hamilton	238.0	459	Prentiss	12.9	11	Chenango	43.2	44	Bell	35.3	36
Hancock	7.8	1	Tippah	15.1	8	Cortland	41.1	33	Boyd	52.2	80
Hawkins	30.5	13	Tishomingo	13.9	16	Delaware	43.5	36	Breathett	15.5	9
Jackson	9.2	7	Union	18.9	14	Otsego	51.9	63	Carter	20.8	14
Jefferson	21.5	12	Webster	10.6	6	Schoharie	22.6	28	Casey	14.3	7
Johnson	10.8	5	Winston	19.2	13	Schugler	15.0	14	Clark	21.0	24
Knox	250.5	485				Steuben	97.7	106	Clay	20.7	13
Loudon	23.8	17	**Georgia**			Tioga	37.8	43	Clinton	8.9	5
McMinn	33.7	23	Banks	6.5	1	Tompkins	66.2	108	Cumberland	7.8	2
Macon	12.2	6	Barrow	14.5	13				Elliott	6.3	3
Marion	21.0	13	Bartow	28.3	22	**Alabama**			Estill	12.5	12
Meigs	5.1	1	Carroll	36.5	21	Bibb	14.4	6	Fleming	10.9	7
Monroe	23.3	17	Catoosa	21.1	3	Blount	25.4	9	Floyd	41.6	25
Morgan	14.3	8	Chattooga	20.0	10	Calhoun	95.9	16	Garrard	9.7	7
Overton	14.7	9	Cherokee	23.0	9	Chambers	37.8	11	Green	11.2	4
Pickett	4.4	1	Dade	8.7	1	Cherokee	16.3	7	Greenup	29.2	15
Polk	12.2	1	Dawson	3.6	4	Chilton	25.7	15	Harlan	51.1	22
Putnam	29.2	24	Douglas	16.7	14	Clay	12.4	5	Jackson	10.7	2
Rhea	15.9	9	Fannin	13.6	6	Cleburne	10.9	3	Johnson	19.7	9
Roane	39.1	15	Floyd	69.1	63	Calbert	46.5	43	Knott	17.4	21
Scott	15.4	17	Forsyth	12.1	5	Coosa	10.7	2	Knox	25.3	15
Sequatchie	5.9	2	Franklin	13.3	6	Cullman	45.6	23	Laurel	24.9	19
Sevier	23.3	13	Gilmer	8.9	3	DeKalb	41.4	23	Lawrence	12.1	10
Smith	12.1	13	Gordon	19.2	10	Elmore	30.5	20	Lee	7.4	3
Sullivan	114.1	146	Gwinnett	43.5	33	Etawah	97.0	67	Leslie	10.9	6
Unicoi	15.1	10	Habersham	18.1	16	Fayette	16.1	6	Letcher	30.1	10
Union	8.5	3	Hall	49.7	68	Franklin	22.0	12	Lewis	13.1	7
VanBuren	3.4	None	Harolson	14.5	9	Jackson	36.7	17	Lincoln	16.5	9
Warren	23.1	17	Heard	5.3	2	Jefferson	634.9	1030	McCreary	12.5	5
Washington	64.8	66	Jackson	18.5	8	Lamar	14.3	5	Madison	33.5	41
White	15.6	12	Lumpkin	7.2	1	Lauderdale	61.6	48	Magoffin	11.1	6

(1) **COUNTY.** List of Counties in the Appalachian Region from Appendix A, 1968 Annual Report of the Appalachian Regional Commission.

(2) **POPULATION.** Population given in thousands. From the same source.

(3) **LAWYERS.** Based on Martindale-Hubbell Law Directory, 1968. The figures should not be regarded as exact, but are considered sufficient to reflect distribution trends.

*This table was complied at the University of Tennessee College of Law.

(1)	(2)	(3)
Alabama (contd.)		
Martin	10.2	2
Menifee	4.3	1
Monroe	11.8	6
Montgomery	13.5	15
Morgan	11.1	7
Owsley	5.4	2
Perry	35.0	29
Pike	68.3	50
Powell	6.7	3
Pulaski	34.4	24
Rockcastle	12.3	7
Rowon	12.8	9
Russell	11.1	9
Wayne	14.7	6
Whitley	25.8	25
Wolfe	6.5	6
North Carolina		
Alexander	15.6	7
Alleghany	7.7	4
Ashe	19.8	5
Avery	12.0	3
Buncombe	130.1	187
Burke	52.7	31
Caldwell	49.6	20
Cherokee	16.3	8
Clay	5.5	2
Davie	16.7	8
Forsythe	189.4	312
Graham	6.4	2
Haywood	39.7	26
Henderson	36.1	36
Jackson	17.8	10
McDowell	26.7	12
Macon	14.9	7
Madison	17.2	7
Mitchell	13.9	4
Polk	11.4	11
Rutherford	45.0	25
Stokes	22.3	6
Surry	48.2	36
Swain	8.4	7
Transylvania	16.4	16
Watauge	17.5	6
Wilkes	45.3	30
Yadkin	22.8	6
Yancey	14.0	7
West Virginia		
Barbour	15.5	8
Berkeley	33.8	28
Boone	28.7	10
Braxton	15.2	5
Brooke	28.9	13
Cabell	108.2	170
Calhoun	8.0	2
West Virginia (contd.)		
Clay	11.9	4
Doddridge	7.0	3
Fayette	61.7	38
Gilmer	8.0	2
Grant	8.3	8
Greenbriar	34.4	16
Hampshire	11.7	8
Hancock	39.6	47
Hardy	9.3	7
Harrison	77.9	98
Jackson	18.5	13
Jefferson	17.7	11
Kanawha	252.9	31
Lewis	19.7	14
Lincoln	20.3	3
Logna	61.6	25
McDowell	71.4	25
Marion	63.7	66
Marshall	38.0	19
Mason	24.5	11
Mercer	68.2	72
Mineral	22.4	17
Mingo	39.7	14
Monongalia	55.6	72
Monroe	11.6	3
Morgan	8.4	4
Nicholas	25.4	12
Ohio	68.4	118
Pendleton	8.1	4
Pleasants	7.1	2
Pocahontas	10.1	3
Preston	27.2	12
Putnam	23.6	6
Raleigh	77.8	47
Randolph	26.3	23
Ritchie	10.9	7
Roane	15.7	8
Summers	15.6	8
Taylor	15.0	8
Tucker	7.7	4
Tyler	10.0	7
Upshur	18.3	13
Wayne	39.0	9
Wetzel	13.7	5
Wtezel	19.3	17
Wirt	4.4	2
Wood	78.3	78
Wyoming	34.8	16
Virginia		
Alleghany	12.1	13
Bath	5.3	4
Bland	6.0	0
Botetourt	16.7	12
Buchanan	36.7	14
Carroll	23.2	9
Virginia (contd.)		
Craig	3.4	1
Dickenson	20.2	10
Floyd	10.5	3
Giles	17.2	7
Grayson	17.4	18
Highland	3.2	4
Lee	25.8	8
Pulaski	27.3	17
Russell	26.3	10
Scott	25.8	9
Smyth	31.1	14
Tazewell	44.8	22
Washington	38.9	25
Wise	43.6	17
Wythe	22.0	10
Independent Cities:		
Norton	5.0	16
Clifton Forge	5.3	11
Covington	11.1	12
Galox	5.3	11
Bristol	17.1	27
South Carolina		
Anderson	98.5	43
Cherokee	35.2	16
Greenville	209.8	241
Oconee	40.2	10
Pickens	46.0	19
Spartanburg	156.8	139
Ohio		
Adams	20.0	9
Athens	47.0	33
Belmont	83.9	65
Brown	25.2	10
Carroll	20.9	11
Clermont	80.5	45
Coshocton	32.2	20
Gallia	26.1	10
Guernsey	38.6	33
Harrison	18.0	9
Hocking	20.2	15
Highland	29.7	21
Holmes	21.6	8
Jackson	29.4	16
Jefferson	99.2	77
Lawrence	55.4	44
Meigs	22.1	7
Monroe	15.3	7
Morgan	12.7	7
Muskingum	79.1	67
Noble	11.0	7
Perry	27.8	16
Pike	19.4	11
Ross	61.2	43
Scioto	84.2	56
Pennsylvania (contd.)		
Tuscarawas	76.8	56
Vinton	10.3	7
Washington	51.7	36
Pennsylvania		
Alleghany	1628.6	2631
Armstrong	79.5	27
Beaver	207.0	125
Bedford	42.5	16
Blair	137.3	70
Bradford	54.9	21
Butler	114.7	58
Cambria	203.3	129
Cameron	7.6	4
Carbon	52.9	39
Centre	78.6	51
Clarion	37.4	16
Clearfield	81.5	46
Clinton	37.6	11
Columbia	53.5	26
Crawford	79.0	49
Elk	37.3	18
Erie	250.7	201
Fayette	169.3	73
Forest	4.5	3
Fulton	10.6	2
Greene	39.4	22
Huntingdon	39.5	16
Indiana	75.4	41
Jefferson	46.8	21
Juniata	15.9	3
Lackawanna	234.5	225
Lawrence	113.0	73
Luzerne	347.0	288
Lycoming	109.4	90
McKean	54.5	45
Mercer	127.5	61
Mifflin	44.3	21
Monroe	39.6	36
Montour	16.7	4
Northumberland	104.1	63
Perry	26.6	13
Pike	9.1	10
Potter	16.5	9
Schuylkill	173.0	87
Snyder	25.9	9
Somerset	77.5	33
Sullivan	6.3	4
Susquehanna	33.1	14
Tioga	36.6	22
Union	25.6	17
Venango	65.3	42
Warren	45.6	27
Washington	27.3	149
Wayne	28.2	11
Westmoreland	353.6	213
Wyoming	16.8	12

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appendix VII
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A. GENERAL

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C. CIVIL LEGAL AID

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appendix VIII

Participants of Conference on Legal Services for the Appalachian Area

July 24-26, 1969
Knoxville, Tennessee

Mrs. Fern Addleman
636 Main St.
Johnstown, PA 15901

Junius L. Allison
Executive Director
National Legal Aid and
Defender Association
1155 East 60th St.
Chicago, IL 60637

F. R. Anderson
U. S. Office of Education
Commission for Higher Education
117 2nd St., N. E.
Washington, DC 20002

Mrs. Alvin Jones Arnett
ARC Fed. Cochairman
8504 Irvington Ave.
Bethesda, MD 20034

Jerome R. Bahlmann
Director
Ohio State Legal Services Assn.
33 West 11th Ave.
Columbus, OH 43201

Abbie C. Baskir
Attorney at Law
646 Independence Ave.
Washington, DC 20002

Lawrence N. Baskir
United States Senate
646 Independence Ave.
Washington, DC 20002

William C. Beatty
West Virginia Bar Association
First Huntington National
Bank Building, Room 900
Huntington, WV 25701

Leonard Berkley
Director
Scioto County Legal Aid
Scioto County Court House
Portsmouth, OH 45662

H. Neil Berkson
Appalachian Volunteers
120 West Court St.
Prestonsburg, KY 41653

Paul Blakenship
Stone River Economic Opportunity
Commission
109 North Spring St.
Murfreesboro, TN 37130

William Don Blood
Southern Rural Project
5 Forsyth St., S. W.
Atlanta, GA 30303

John Boettner
Virginia State Bar Association
1111 Ninth St. Office Building
Richmond, VA 23219

Dennis Bricking
Legal Aid Society of Louisville
422 West Liberty St.
Louisville, KY 40202

David C. Brown
Assistant Executive Director
Bradley-Cleveland Community
Action Corp.
150 Dooley St.
Cleveland, TN 37311

Lawrence J. Burns
Attorney
American Bar Association
50 West Broad St.
Columbus, OH 43215

Thomas Cady
West Virginia University
College of Law
1530 University Ave.
Morgantown, WV 26505

Charles E. Carter
Mahoning County Legal Services
804 Central Tower Bldg.
Youngstown, OH 44503

Harry M. Caudill
Lawyer
Whitesburg, KY 42464

Robert L. Caummissar
Executive Attorney
Northeast Ky. Area Development
Legal Services Program
P. O. Box 697
Grayson, KY 41143

Stepehn C. Cawood
Attorney
Bldg. 7, Apt. E
260 Northern Ave.
Avondale Estates, GA 30002

Roy F. Center, Jr.
Director
Dept. of Conferences & Institutes
The University of Tennessee
Knoxville, TN 37916

Richard A. Chappell
University of Georgia
Corrections Section
101 Law School Bldg.
Athens, GA 30601

Mrs. R. W. Childers
2435 Abbey Rd.
Knoxville, TN 37917

Emmet H. Clain
Assistant Attorney General
State of South Carolina
Wade Hampton Bldg.
Columbia, SC 29211

Glen W. Clark
Associate Professor
Walter F. George School of Law
Mercer University
Macon, GA 31207

N. Samuel Clifton
Executive Director
Virginia State Bar
1111 Ninth St. Office Bldg.
Richmond, VA 23219

Richard A. Cohen
American Bar Association
2348 Hempstead Rd.
Toledo, OH 43606

Granville Collins
Circuit Defender
Fulton, MO 65251

S. R. Combs
Local CAC Official
318 Winona Court
Knoxville, TN

Fred F. Comer
Assistant Director
United Community Services of
Greater Knoxville
307 Locust St.
Knoxville, TN 37917

O. Harmon Cooter
2505 Wrights Ferry Rd.
Knoxville, TN 37919

James C. Cordell
Regional Director
Office of Economic Opportunity
730 Peachtree St.
Atlanta, GA 30308

Charles R. Coy
Kentucky State Bar Association
P. O. Drawer S
Richmond, KY 40475

Phillip Cummings
Assistant to the General Counsel
Appalachian Regional Commission
1666 Connecticut Ave., N. W.
Washington, DC 20235

Tilden J. Curry
Office of Urban and Federal
Affairs, Appalachian Division
321 Seventh Ave., N.
Nashville, TN 37219

Robert A. DiCicco
Executive Department
Assistant Attorney General
Annapolis, MD 21404

Frank Donaldson
Assistant Dean
Cumberland School of Law
800 Lakeshore Dr.
Birmingham, AL 35209

William F. Dolson
University of Louisville
Professor of Law
Louisville, KY 40208

Clifford A. Dougherty
Chairman, Legal Aid and Legal
Reference Comm.
2007 North 15th St.
Arlington, VA 22207

Wendell W. Drake
Labor Staff Representative
United Fund of Kanawha Valley
702-1/2 Lee Street
Charleston, WV 25330

William J. Eaker
Director
Legal Aid Society of
Mecklenburg County
309 Law Bldg.
Charlotte, NC 28202

Bert Early
Executive Director
American Bar Association
1155 East 60th St.
Chicago, IL 60637

George Eblen
Attorney at Law
Shelbyville, TN 37160

Charles L. Edson
ADA Comm. of Legal Aid
5515 Uppingham St.
Chevy Chase, MD 20015

David Ellwanger
Assistant Director
Public Service Activities
American Bar Association
1155 East 60th St.
Chicago, IL 60637

William W. Falsgraf
American Bar Association
Legal Aid and Indigent Defendants
1050 Union Commerce Bldg.
Cleveland, OH 44115

Maurice Finkelstein
Legal Services Director
Mid-Atlantic Region, OEO
Washington, DC 20506

Edward C. Freeman
Attorney
202-1/2 State St.
Knoxville, TN 37902

Ferdinand Forney
Project Director
Legal Aid Society
2400 Reading Rd.
Cincinnati, OH 45202

William H. Fortune
University of Kentucky
434 Fayette Rd.
Lexington, KY 40508

Jack Franklin
Attorney
115 Sims St.
Sparta, TN 38583

William T. Gerald
City Court of Athens
720 Southern Mutual Bldg.
Athens, GA 30601

Albert G. Giles
Director
State of Ohio Dept. of Urban Affairs
Appalachian Regional Comm.
50 West Broad St.
Columbus, OH 43215

Stephen DeWitt Gray
University of Kentucky
College of Law
Lexington, KY 40508

Gerard Gerhard
University of Kentucky
College of Law
Lexington, KY 40506

Vicki Gow
Office of Urban and Federal Affairs
Appalachian Division
321 Seventh Ave., N.
Nashville, TN 37219

Joseph M. Gray
Rm. 157, State Capitol
Frankfort, KY 40605

Larry M. Greathouse
Attorney
315 Boone St.
Berea, KY 40403

James W. Greenlee
Philadelphia Bar Association
Philadelphia, PA

Frank Groschelle
Office of the Governor
Frankfort, KY 40601

Lynn H. Groseclose
University of Virginia
School of Law
Legal Aid Society
2424 Sunset Road
Charlottesville, VA 22903

David G. Hanlon
Director, Continuing Education
West Virginia University
College of Law
1530 University Ave.
Morgantown, WV 26505

Vernon Hart
Director
Greensboro Legal Aid Foundation
625 Southeastern Bldg.
Greensboro, NC 27401

Edward A. Harter, Jr.
Executive Director
Legal Aid Service Agency
1501 Washington St.
P.O. Box 1056
Columbia, SC 29202

James M. Haviland
Managing Attorney
Legal Research for Appalachian Elderly
308 Coal and Coke Bldg.
Bluefield, WV 24701

Harriet Haynes
Stone River Econ. Oppor. Comm.
109 North Spring St.
Murfreesboro, TN 37130

Andrew D. Holt
President
The University of Tennessee
211 Administration Bldg.
Knoxville, TN 37916

Michael D. Johnson
Legal Research and Service
for the Elderly
U.P.O. Box 854
Morehead, KY 40351

Karen A. Kirby
Assistant Director
Legal Association of Butler County
1240 Central
Middletown, OH 45042

Ene-Malle Lauritis
Secretary of Publications
National Legal Aid & Defender Assn.
1155 East 60th St.
Chicago, IL 60637

Archie T. Lawrence
Staff Attorney
Legal Aid Society of Chattanooga
312 Dome Bldg.
Chattanooga, TN 37402

H. Kenneth Lee
Attorney
P.O. Box 7586
Asheville, NC 28807

H. T. Lockard
Executive Chambers
Office of the Governor
Nashville, TN 37219

W. S. McAninch
University of South Carolina
School of Law
1515 Green St.
Columbia, SC 29208

James C. McCreight
Pa. Bar Association Comm. on
Service to the Public
520 Washington Trust Bldg.
Washington, PA 15301

Donald M. McIntyre
Supervisor of Research
American Bar Foundation
1155 East 60th St.
Chicago, IL 60637

A. Andrew MacQueen III
Attorney
Chilton Manor 5-B
Charleston, WV

Ronald Mahoney
Assistant Director
Kentucky State Bar Association
State Capitol Bldg., Rm. 243
Frankfort, KY 40601

Jeanne Marks
National Legal Aid and Defender
Association
1155 East 60th St.
Chicago, IL 60637

John C. Marston
Legal Aid Staff
Bucks County Legal Aid Society
Administration Bldg. Annex
Doylestown, PA 18901

James Mattingly
University of Louisville
3521 Fountain Dr. No. 1
Louisville, KY 40218

Charles H. Miller
Director
Legal Clinic Univ. of Tennessee
College of Law
Knoxville, TN 37916

Maubert R. Mills
President, Ky. State Bar Assn.
123 Center St.
Madisonville, KY 42431

Charles Moyer
Staff Attorney
Legal Aid Program
Community Action Program
143 South Duke St.
Lancaster, PA 17602

John F. T. Murray
Professor of Law
University of Georgia
Athens, GA 30601

Stanley C. Nickell
Staff Attorney
Legal Services Program
Northeast Kentucky Area
Court House, Rm. 102
Greenup, KY 41144

John G. O'Mara
General Counsel
Legal Aid Society
422 West Liberty
Louisville, KY 40202

Robert D. Peckham
Legal Aid and Defender Society
University of Georgia
School of Law
Athens, GA 30601

Carl D. Perkins
Representative for the Seventh
District of Kentucky
U. S. House of Representatives
Washington, DC 20002

Ralph Petrilli
University of Louisville
School of Law
Belknap Campus
Louisville, KY 40208

Donald P. Plant
Community Services Activity
AFL-CIO
415 Washington
P. O. Box 466
Warren, OH 44483

Thomas P. Powers
Associate Director, VISTA
Office of Economic Opportunity
1200 19th St., N.W.
Logan Bldg., Rm. 822
Washington, DC 20605

Joseph F. Preloznik
Director
Wisconsin Judicare
520 University Avenue
Madison, WI 53703

Ron H. Rader
Coordinator
Dept. of Conferences & Institutes
University of Tennessee
Knoxville, TN 37916

J. Wayne Reitz
Director, Div. of Graduate
Programs, Bureau of
Higher Education
U.S. Office of Education
1600 South Joyce St., Apt. B-1211
Arlington, VA 22202

Ivan C. Rutledge
Ohio State University
School of Law
1659 North High St.
Columbus, OH 43210

Leonard E. Ryan
Project Specialist
Ford Foundation
320 East 43rd St.
New York, NY 10017

Joseph C. Segor
Deputy Director
South Florida Migratory Legal Services
395 N.W. First St.
Miami, FL 33128

Toxey Sewell
Associate Professor
The University of Tennessee
College of Law
Legal Clinic
Knoxville, TN 37916

John E. H. Sherry
Assistant Professor
University of Toledo
College of Law
302 East Buchtel Ave.
Akron, OH 44304

August L. Sismondo
Executive Director
Washington-Greene Legal Aid Society
29 West Cherry Ave.
Washington, PA 15301

Shirley Z. Small
Legal Aid Society of Louisville
422 West Liberty St.
Louisville, KY 40202

Fred W. Smith III
Coordinator
Dept. of Conferences & Institutes
University of Tennessee
Knoxville, TN 37916

Jack D. Smith
Executive Director
Bradley-Cleveland Comm.
Action Corporation
150 Dooley St., S.E.
Cleveland, TN 37311

William K. Sparks
Legal Aid Society of Louisville
422 West Liberty St.
Louisville, KY 40202

Kent Spriggs
Assistant Director
North Miss. Rural Legal Services
108½ South Laman
Oxford, MI 38655

Mortimer J. Stamm
University of Kentucky
24 A Richmond Avenue
Lexington, KY 40502

James W. H. Stewart
P.O. Box 432
Lexington, VA 24450

Mayo H. Stiegler
Director, Membership Services
National Legal Aid & Defender
Association
1155 East 60th St.
Chicago, IL 60637

A. C. Strip
Standing Committee on Legal Aid
and Indigent Defendants
American Bar Association
16 East Broad Street
Columbus, OH 43215

William E. Sweeney
Governors Assistant
State Planning Office
State of West Virginia
Charleston, WV 25301

Robert E. Thacker
Division of State Planning
and Community Affairs
1010 James Madison Bldg.
Richmond, VA 23219

James R. Thomas
Director
Tuscarawas County Legal Services
133 Court St., N.E.
New Philadelphia, OH 44663

Howard Thorkelson
Attorney
Appalachian Volunteers
Legal Office
120 Court St.
Prestonsburg, KY 41653

F. Allan Thurman
Associate Director
Dept. of Conferences & Institutes
University of Tennessee
Knoxville, TN 37916

William H. Traylor
Director
Emory Community Legal Services
1397 Oxford Rd., N.E.
Atlanta, GA 30307

Marlin M. Volz
Professor of Law
University of Louisville
School of Law
Louisville, KY 40208

Birt Waite
Graduate Student
621-19th St.
Knoxville, TN 37916

Charles Walker
Chairman
Law Enforcement Dept.
West Virginia State College
Institute, WV 25112

Tom Waller
Advocate Planner
Madison-Vuncombe Rural
Development Council
P.O. Box 251
Mars Hill, NC

Karl P. Warden
Professor of Law
Vanderbilt University
Nashville, TN 37203

Harold C. Warner
Dean, College of Law
University of Tennessee
101 Law Bldg.
Knoxville, TN 37916

John B. Waters, Jr.
Co-Chairman
Appalachian Regional Comm.
Professional Bldg.
Sevierville, TN 37862

Jess H. Watson
Public Defender
Fulton County, GA

Naomi Weintraub
Staff Attorney
Mercer County Economic
Opportunity Corporation
Route 3, Box 169
Bluefield, WV 24701

Dale A. Whitman
Assistant Professor
University of North Carolina
School of Law
Chapel Hill, NC 27514

Ralph Widner
Executive Director
Appalachian Regional Comm.
Washington, DC 20002

Harry Wiersema
Civil Engineer
Carlton Towers 614
Knoxville, TN 37919

Carl J. Wood
Director
Legal Aid Society of Chattanooga
312 Dome Bldg.
Chattanooga, TN 37402

William H. Woodward
President
Virginia State Bar Association
115 Johnson St.
Bristol, VA 24588

Robert E. L. Young
Chief Counsel
Legal Aid Society
2400 Reading Rd.
Cincinnati, OH 45202

Ernest S. Zavodnyik
Assistant Director
Law Student Division
American Bar Association
1155 East 60th St.
Chicago, IL 60637

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